

Community Safety and Policing Act, 2019

S.O. 2019, CHAPTER 1 SCHEDULE 1

Consolidation Period: From July 14, 2020 to the [e-Laws currency date](#).

Note: THIS ACT IS NOT YET IN FORCE. It comes into force (except s. 100) on a day to be named by proclamation of the Lieutenant Governor.

Last amendment: 2020, c. 15, s. 19.

Legislative History: 2019, c. 1, Sched. 1, s. 264; 2019, c. 7, Sched. 17, s. 52; 2020, c. 15, s. 19.

CONTENTS

	PART I
	PRINCIPLES AND INTERPRETATION
1.	Declaration of principles
2.	Interpretation
	PART II
	MINISTER'S DUTIES AND POWERS
	DUTIES
3.	Minister's general duties
	INFORMATION
4.	Information to Minister in accordance with regulations
5.	Personal information
6.	Disclosure for research purpose
7.	Information and Privacy Commissioner's review of practices
8.	Offence
9.	Review of information provisions
	PART III
	PROVISION OF POLICING
	RESPONSIBILITY FOR PROVIDING POLICING
10.	Policing responsibility
11.	Adequate and effective policing
12.	Prescribed policing provider
	USE OF PERSONNEL
13.	Members of police service must provide certain functions
14.	Alternative provision
15.	Personnel to meet prescribed qualifications
	SPECIAL AREAS
16.	Special areas, provision of policing by Commissioner
	ADDITIONAL SERVICES AND EXTRA POLICING
17.	Additional services
18.	Extra policing cost
	TEMPORARY ASSISTANCE AND EMERGENCIES
19.	Request for temporary assistance
20.	Inspector General powers
21.	Emergencies
	PART IV
	MUNICIPAL POLICING AND POLICE SERVICE BOARDS
	METHODS OF PROVIDING MUNICIPAL POLICING
22.	Methods of providing municipal policing
23.	Amalgamation of police services
24.	Agreement to jointly constitute municipal board
25.	Other municipal boards
26.	Agreements for provision of policing between municipalities
27.	Agreement with First Nation to provide policing
	MUNICIPAL DIVERSITY PLANS
28.	Diversity plan
29.	Promotion of appointments by municipality
30.	Dissolution of municipal board
	MUNICIPAL BOARDS

31.	Municipal boards	
		FIRST NATION BOARDS
32.	First Nation boards	
		APPOINTMENT OF POLICE SERVICE BOARD MEMBERS
33.	Appointment	
34.	Members appointed by municipality	
35.	Oath, training and conduct	
36.	Election of chair	
		POLICE SERVICE BOARD DUTIES AND POWERS
37.	Police service board duties	
38.	Police service board policies	
39.	Strategic plan	
40.	Police service board directions	
41.	Reporting and information sharing	
		ADMINISTRATION AND FINANCES
42.	Delegation	
43.	Meetings	
44.	When meetings may be closed to public	
45.	Evidence of by-laws	
46.	Rules and procedures	
47.	Liability	
48.	Protection from personal liability	
49.	Police service board may contract, sue and be sued	
50.	Municipal board finances	
51.	Funding review, First Nation board	
52.	Aid to survivors of deceased member of municipal police service	
		MISCELLANEOUS
53.	Termination to abolish or reduce size of police service	
54.	Municipal fines	
55.	Municipal by-law enforcement officers	
		PART V
	ONTARIO PROVINCIAL POLICE	
		COMMISSIONER
56.	Commissioner	
57.	Commissioner's duties	
58.	Annual report	
		MINISTER
59.	Minister's O.P.P. duties	
60.	Minister's policies	
61.	Strategic plan	
62.	Minister directions	
		ADMINISTRATION AND FINANCES
63.	Liability	
64.	Commissioner policing	
65.	Minister may charge for Commissioner's services	
66.	Aid to survivors of deceased member of O.P.P.	
		O.P.P. DETACHMENT BOARDS
67.	O.P.P. detachment board	
68.	Role	
69.	Local policies	
70.	Local action plan	
71.	Estimates, O.P.P. detachment boards	
		ONTARIO PROVINCIAL POLICE GOVERNANCE ADVISORY COUNCIL
72.	Ontario Provincial Police Governance Advisory Council	
73.	Functions of Advisory Council	
74.	Meetings	
75.	When meetings may be closed to public	
		AGREEMENTS WITH FIRST NATIONS
76.	Agreements with First Nations to provide O.P.P. policing	
77.	First Nation O.P.P. boards	
78.	Duties and functions of First Nation O.P.P. board	
		PART VI
	POLICE OFFICERS AND OTHER POLICING PERSONNEL	
		CHIEF OF POLICE
79.	Duties of chief of police	
80.	Power to disclose personal information	

81.	SIU investigation of member of police service
	POLICE OFFICERS
82.	Duties of police officer
83.	Appointment of police officer
84.	Probationary period, police service board officer
85.	Oaths of office and secrecy
86.	Political activity
	MEMBERS OF POLICE SERVICES
87.	Qualifications to hold position
88.	Accommodation of disability needs
89.	Restrictions on secondary activities
90.	Police cadets
91.	Auxiliary members of police service
	SPECIAL CONSTABLES
92.	Special constables
93.	Amendment to certificate of appointment
94.	Suspension and termination of special constable appointment
95.	Special constable duties
96.	Notice if outside area of policing responsibility
	SPECIAL CONSTABLE EMPLOYERS
97.	Authorization
98.	Duties of special constable employer
99.	Suspension or termination of authorization to employ
	SPECIAL CONSTABLES HOLDING OUT AS POLICE OFFICERS
100.	Holding out as police officer
	FIRST NATION OFFICERS
101.	First Nation Officers
	PART VII
	INSPECTOR GENERAL OF POLICING
	APPOINTMENT AND DUTIES
102.	Inspector General of Policing
103.	Annual report
	INFORMATION
104.	Information to Inspector General in accordance with regulations
105.	Personal information
	COMPLAINTS
106.	Board member complaints
107.	Policing complaints
108.	Forwarding of complaints
109.	Complaints by Minister
110.	Interpretation, portion of a complaint
	INSPECTIONS
111.	Inspectors
112.	Restrictions on inspections
113.	Inspection without order
114.	Inspection order
115.	Inspection powers
116.	Power to require response to inquiries
117.	Detention of things, documents or data
118.	Privilege preserved
119.	Confidentiality
120.	Notice
121.	Referral to other chief of police
122.	Board member duties during and after investigation
	RESULTS OF INSPECTION
123.	Results of inspection
124.	Inspector General's powers
125.	Non-compliance with Act or regulations
126.	Failure to comply with Inspector General's direction
127.	Administrators
128.	Emergency, interim measure
	OFFENCES
129.	Prohibition
	PART VIII
	LAW ENFORCEMENT COMPLAINTS AGENCY
130.	Law Enforcement Complaints Agency

131.	Complaints Director
132.	Functions
133.	Review of systemic issues
134.	Rules
135.	Employees
136.	Investigators
137.	Application of Public Inquiries Act, 2009
138.	Investigation powers, place owned or occupied by police, etc.
139.	Investigation powers, other places
140.	Records or things removed
141.	Copy admissible
142.	Liaisons
143.	Collection, use and disclosure of personal information
144.	Annual report
145.	Confidentiality
146.	Protection from personal liability
	PART IX
	ONTARIO POLICE ARBITRATION AND ADJUDICATION COMMISSION
147.	Composition of Arbitration and Adjudication Commission, etc.
148.	Commission Chair
149.	Fees for adjudicators
150.	Costs of adjudication hearings
	PART X
	PUBLIC COMPLAINTS
151.	Interpretation
152.	Application of Part
153.	Determination of public interest in an investigation
	PUBLIC COMPLAINTS
154.	Public complaints
155.	Forwarding complaints to the Complaints Director
156.	Complaints from another province or territory
157.	Review of complaints
158.	Refusal to investigate
159.	Investigation of complaints
160.	Withdrawal of complaint
	POWER TO INVESTIGATE ABSENT A COMPLAINT
161.	Investigation in absence of complaint
162.	Notices
	INVESTIGATIONS
163.	Postponement due to criminal investigation or proceeding
164.	Discontinuance of investigation
165.	Investigation timing
166.	Investigation report
167.	Determination of no misconduct
168.	Determination of misconduct
	OTHER MATTERS
169.	Informal resolution
170.	Effect of resignation on complaint, investigation
171.	Termination of officers appointed under Interprovincial Policing Act, 2009
172.	Costs of investigations
173.	Special Investigations Unit
174.	Notice to Inspector General
175.	Duty of chief of police to notify Complaints Director
176.	Notice to extra-provincial commander
177.	Public statements by Complaints Director
178.	Duty to comply
179.	Prohibitions
180.	Offences and penalty
181.	Protection from giving testimony
	PART XI
	RIGHT TO REPORT MISCONDUCT
	APPLICATION
182.	Disclosure despite conflict with other Acts
	DISCLOSURE PROCEDURES
183.	Disclosure procedures
184.	Reporting of misconduct

	<u>DISCLOSURE TO THE INSPECTOR GENERAL</u>
<u>185.</u>	Disclosure to Inspector General
<u>186.</u>	Disclosure to SIU Director
<u>187.</u>	Initial assessment by Inspector General
<u>188.</u>	Allegation of criminal conduct
<u>189.</u>	Dealing with disclosure of misconduct
	<u>PROTECTION FROM REPRISALS</u>
<u>190.</u>	No reprisals
<u>191.</u>	Complaint about reprisal
	<u>PART XII</u>
	DISCIPLINE AND TERMINATION
	<u>NON-APPLICATION</u>
<u>192.</u>	Non-application
<u>193.</u>	Agreements
	<u>PROCEDURES</u>
<u>194.</u>	Assessment and discipline procedures
	<u>MISCONDUCT</u>
<u>195.</u>	Misconduct
<u>196.</u>	Inducing misconduct and withholding services
	<u>MANDATORY NOTICE OF MISCONDUCT</u>
<u>197.</u>	Duty to provide notice to Complaints Director
	<u>INVESTIGATIONS</u>
<u>198.</u>	Investigation by chief of police
<u>199.</u>	Postponement due to criminal investigation or proceeding
	<u>DISCIPLINARY MEASURES AND HEARINGS</u>
<u>200.</u>	Suspension, forfeit of pay, reprimands, etc.
<u>201.</u>	Procedure and hearings
<u>202.</u>	Termination of employment or demotion
<u>203.</u>	Postponement due to criminal investigation or proceeding
<u>204.</u>	Appeal to Divisional Court
<u>205.</u>	Agreement to disciplinary measure after public complaint
<u>206.</u>	Effect of resignation on investigation, discipline
<u>207.</u>	Expunging of record
	<u>LIMITATION ON INVESTIGATIONS AND DISCIPLINE</u>
<u>208.</u>	Limitation on investigations, discipline
	<u>SUSPENSION</u>
<u>209.</u>	Suspension with pay
<u>210.</u>	Suspension without pay
<u>211.</u>	Powers on suspension
	<u>TERMINATION OF PROBATIONARY POLICE OFFICERS</u>
<u>212.</u>	Termination of employment during probationary period
	<u>EVIDENCE</u>
<u>213.</u>	Police officer not required to give evidence
	<u>MISCELLANEOUS</u>
<u>214.</u>	Application of Statutory Powers Procedure Act
<u>215.</u>	Reports of chief of police
	<u>TRANSITION</u>
<u>216.</u>	Transition
	<u>PART XIII</u>
	LABOUR RELATIONS
	<u>DEFINITION AND APPLICATION</u>
<u>217.</u>	Definition, Part XIII
<u>218.</u>	Non-employees of police service boards
	<u>POLICE ASSOCIATIONS</u>
<u>219.</u>	Duty of fair representation
	<u>MEMBERSHIP AND STATUS</u>
<u>220.</u>	Restriction on membership in police association
<u>221.</u>	Membership in trade union prohibited for certain members
<u>222.</u>	Dispute re person's status
	<u>BARGAINING AND ARBITRATION</u>
<u>223.</u>	Separate bargaining, etc., separate categories
<u>224.</u>	Notice of desire to bargain
<u>225.</u>	Bargaining committee
<u>226.</u>	Appointment of conciliation officer
<u>227.</u>	Arbitration
<u>228.</u>	Dispute, appointment of conciliation officer

229.	Arbitration after conciliation fails
230.	Extension of time
231.	Restriction
232.	Non-application of Arbitration Act, 1991
233.	Agreements, decisions and awards binding
234.	Duration of agreements, decisions and awards
235.	Provision for expenditures
236.	Transition; continuation of proceedings
	INQUIRIES
237.	Inquiry, alleged contravention
	PART XIV
	TRANSFER OF ASSETS BETWEEN PENSION PLANS
238.	Interpretation
239.	Agreement governing transfers
240.	Duty to file agreement
241.	Eligibility of police service employees
242.	Employee's consent to transfer of assets
	PART XV
	COURT SECURITY
243.	Court security
244.	Powers of person providing court security
245.	Offences
246.	Powers not affected
247.	Privilege preserved
	PART XVI
	COMMUNITY SAFETY AND WELL-BEING PLANS
	PREPARATION AND ADOPTION
248.	Municipal community safety and well-being plan
249.	First Nation community safety and well-being plan
250.	Preparation of plan by municipality
251.	Content of community safety and well-being plan
252.	Publication of community safety and well-being plan
253.	Implementation of community safety and well-being plan
	REPORTING AND REVISION
254.	Monitoring, evaluating and reporting
255.	Revision by municipality
	MISCELLANEOUS
256.	Information to Minister
257.	Community safety and well-being planner
	PART XVII
	REGULATIONS AND MISCELLANEOUS
258.	Property in possession of police service
259.	Money
260.	Firearms
261.	Regulations
262.	Public consultation before making L.G. in C. regulations
263.	Crown bound

PART I PRINCIPLES AND INTERPRETATION

Declaration of principles

1 Policing shall be provided throughout Ontario in accordance with the following principles:

1. The need to ensure the safety and security of all persons and property in Ontario, including on First Nation reserves.
2. The importance of safeguarding the fundamental rights and freedoms guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*.
3. The need for co-operation between policing providers and the communities they serve.
4. The importance of respect for victims of crime and understanding of their needs.
5. The need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society.
6. The need to be responsive to the unique histories and cultures of First Nation, Inuit and Métis communities.
7. The need to ensure that police services and police service boards are representative of the communities they serve.

8. The need to ensure that all parts of Ontario, including First Nation reserves, receive equitable levels of policing.

Interpretation

2 (1) In this Act,

“adequate and effective policing” has the meaning set out in subsection 11 (1); (“services policiers convenables et efficaces”)

“Advisory Council” means the Ontario Provincial Police Governance Advisory Council established under subsection 72 (1); (“Conseil consultatif”)

“Arbitration and Adjudication Commission” means the Ontario Police Arbitration and Adjudication Commission continued by subsection 147 (1); (“Commission d’arbitrage et de décision”)

“auxiliary member” means a member of a police service appointed under section 91; (“membre auxiliaire”)

“band council” means a council of the band as defined in subsection 2 (1) of the *Indian Act* (Canada); (“conseil de bande”)

“chief of police” means a chief of police of a police service maintained by a police service board or the Commissioner, and includes an acting chief of police; (“chef de police”, “chef”)

“Commission Chair” means the chair of the Arbitration and Adjudication Commission; (“président de la Commission”)

“Commissioner” means the Commissioner of the Ontario Provincial Police appointed under subsection 56 (1), and includes an acting Commissioner; (“commissaire”)

“community safety and well-being plan” means a community safety and well-being plan described in section 251; (“plan de sécurité et de bien-être communautaires”)

“Complaints Director” means the Complaints Director appointed under subsection 131 (1); (“directeur des plaintes”)

“de-identify”, in relation to the personal information of an individual, means to remove any information that identifies the individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify the individual; (“anonymiser”)

“First Nation” means a band as defined in the *Indian Act* (Canada); (“Première Nation”)

“First Nation board” means a board constituted under section 32; (“commission de Première Nation”)

“First Nation Officer” means a person appointed under section 101 as a First Nation Officer; (“agent de Première Nation”)

“First Nation O.P.P. board” means a board constituted under section 77; (“conseil de Première Nation sur la Police provinciale”)

“First Nation reserve” means a reserve as defined in the *Indian Act* (Canada); (“réserve de Première Nation”)

“Inspector General” means the Inspector General of Policing appointed under subsection 102 (1); (“inspecteur général”)

“local commander” means a chief of police of a police service or a commander of a detachment, or his or her designate; (“commandant local”)

“member of a police service” means,

- (a) a member of the Ontario Provincial Police,
- (b) a chief of police of any other police service,
- (c) an employee of a police service board who is under the direction of a chief of police,
- (d) an auxiliary member of a police service, or
- (e) a person appointed as a police officer under the *Interprovincial Policing Act, 2009*; (“membre d’un service de police”)

“member of the Ontario Provincial Police” means,

- (a) the Commissioner,
- (b) a person employed under Part III of the *Public Service of Ontario Act, 2006* who is under the direction of the Commissioner, or
- (c) an auxiliary member of the Ontario Provincial Police; (“membre de la Police provinciale de l’Ontario”)

“Minister” means the Minister of Community Safety and Correctional Services or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“Ministry” means the Ministry of the Minister; (“ministère”)

“misconduct” means,

(a) in the case of a police officer or special constable, misconduct as set out in section 195,

(b) in the case of a member of a police service board, an O.P.P. detachment board, a First Nation O.P.P. board or the Advisory Council, a failure to comply with the applicable prescribed code of conduct, or

(c) in the case of a peace officer in the Legislative Protective Service, a failure to comply with the applicable rules of conduct; (“faute”)

“municipal board” means a board constituted by a municipality or municipalities under section 22, 23, 24 or 25; (“commission municipale”)

“O.P.P. detachment board” means a board referred to in section 67; (“conseil de détachement de la Police provinciale”)

“personal information” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*; (“renseignements personnels”)

“police association” means,

(a) the Ontario Provincial Police Association, or

(b) an association, other than a trade union, whose members are employees of one police service board who are members of the police service maintained by the police service board; (“association de policiers”)

“police officer” means a member of a police service who is appointed as a police officer or a person who is appointed as a police officer under the *Interprovincial Policing Act, 2009* and, for greater certainty, does not include a special constable, a First Nation Officer, a municipal by-law enforcement officer, a police cadet or an auxiliary member of a police service; (“agent de police”)

“police record check” means a search to be conducted of the Canadian Police Information Centre databases or another police database maintained by a police service in Canada to determine whether the databases contain entries relating to an individual in order to screen the individual; (“vérification de dossier de police”)

“police service” means the Ontario Provincial Police or a police service maintained by a police service board; (“service de police”)

“police service board” means,

(a) a municipal board, or

(b) a First Nation board; (“commission de service de police”)

“policing function” means a function listed in subsection 11 (1) or a part of one of those functions; (“fonction policière”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“prescribed policing provider” means a public sector body that is an institution within the meaning of the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act* and that is prescribed to provide a policing function in an area in accordance with section 12; (“prestataire de services policiers prescrit”)

“public sector body” means,

(a) a Ministry, commission, board or other administrative unit of the Government of Ontario, including any agency thereof,

(b) a municipality,

(c) a local board as defined in subsection 1 (1) of the *Municipal Act, 2001* or subsection 3 (1) of the *City of Toronto Act, 2006*,

(d) a municipally-controlled corporation as defined in section 223.1 of the *Municipal Act, 2001*, and

(e) a city-controlled corporation as defined in section 156 of the *City of Toronto Act, 2006*; (“organisme du secteur public”)

“regulations” means the regulations made under this Act; (“règlements”)

“research” means a systematic investigation designed to develop or establish principles, facts or generalizable knowledge, or any combination of them, and includes the development, testing and evaluation of research; (“recherche”)

“research ethics board” means a board of persons that is established for the purpose of approving research plans under section 6 and that meets the prescribed requirements; (“commission d’éthique de la recherche”)

“SIU Director” means the Special Investigations Unit Director appointed under subsection 5 (1) of the *Special Investigations Unit Act, 2019*; (“directeur de l’UES”)

“special constable” means a person appointed as a special constable under section 92; (“agent spécial”)

“special constable employer” means a person authorized to employ special constables under section 97; (“employeur d’agents spéciaux”)

“spouse” means,

- (a) a spouse as defined in section 1 of the *Family Law Act*, or
- (b) either of two persons who live together in a conjugal relationship outside marriage; (“conjoint”)

“trade union” has the same meaning as in the *Labour Relations Act, 1995*; (“syndicat”)

“youth crime” means offences, within the meaning of the *Youth Criminal Justice Act* (Canada), committed by a person while they were a young person within the meaning of that Act. (“délinquance juvénile”)

Officer appointed under the *Interprovincial Policing Act, 2009* deemed to be a member of a specific police service

(2) For the purposes of sections 89 and 258 to 260 of this Act, section 25.1 of the *Criminal Code* (Canada) and any designation of a police force made by the Minister under section 2 of the *Controlled Drugs and Substances Act (Police Enforcement) Regulations* (Canada) or subsection 2 (1) of the *Cannabis Act (Police Enforcement) Regulations* (Canada), a person appointed as a police officer under the *Interprovincial Policing Act, 2009* is deemed to be,

- (a) if he or she was appointed by a member of a police service maintained by a police service board, a member of that police service;
- (b) if he or she was appointed by a member of a police service board, a member of the police service maintained by the police service board; or
- (c) otherwise, a member of the Ontario Provincial Police.

Meaning of municipality

(3) For the purpose of every provision of this Act and the regulations, other than sections 25 and 55,

“municipality” means,

- (a) a single-tier municipality;
- (b) a lower-tier municipality in a county or in the County of Oxford;
- (c) a regional municipality, other than the County of Oxford; or
- (d) any other municipality that has constituted a municipal board under subsection 25 (2).

County of Oxford agreement

(4) Despite subsection (3), the councils of the County of Oxford and of all the lower-tier municipalities within the County of Oxford may agree to have the County of Oxford and not its lower-tier municipalities be considered a municipality for the purpose of every provision of this Act and the regulations other than sections 25 and 55, but, having made such an agreement, the councils cannot subsequently revoke it.

Municipality interpretation in context

(5) In this Act, a reference to a municipality is a reference to its geographical area or to the municipal corporation, as the context requires.

Hearing not required unless referred to

(6) Nothing in this Act, other than the provisions of Part XII that specifically refer to a hearing, shall be construed to require a hearing to be held within the meaning of the *Statutory Powers Procedure Act*.

**PART II
MINISTER’S DUTIES AND POWERS**

DUTIES

Minister’s general duties

3 (1) The Minister shall,

- (a) assist in the co-ordination of policing;
- (b) conduct activities, including research and analysis, to assist in the co-ordination of policing with the activities of prosecutors and other justice sector service providers;
- (c) support operations for the purpose of delivering policing functions;

- (d) consult with and advise police service boards, chiefs of police, special constable employers, prescribed policing providers, prescribed entities, municipalities, First Nations, entities that employ First Nation Officers, O.P.P. detachment boards, First Nation O.P.P. boards and police associations in respect of policing, the administration of police services and related matters, including,
 - (i) the effectiveness, efficiency, sustainability and legitimacy of different methods of providing policing, and,
 - (ii) compliance with the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*;
- (e) conduct research and analysis in respect of the matters described in clause (d);
- (f) consult with and advise police service boards, chiefs of police, municipalities and First Nations regarding the preparation, adoption and implementation of community safety and well-being plans;
- (g) conduct research and analysis to inform policy and program development, system planning and the evaluation of service delivery and outcomes in respect of policing, public complaints and related matters;
- (h) develop, maintain and manage records related to the appointment, education, training, suspension and discipline of police officers and special constables;
- (i) develop and promote programs for community-responsive policing;
- (j) monitor and evaluate programs, including their outcomes, that are related to policing or community safety and well-being plans and that are funded in whole or in part by the Ministry;
- (k) provide advice to ministries and Crown agencies concerning security risks and mitigation strategies;
- (l) develop, promote and provide education and training to,
 - (i) enhance the professional provision of policing, and
 - (ii) assist members of police service boards, O.P.P. detachment boards, First Nation O.P.P. boards and the Advisory Council in performing their duties;
- (m) develop and maintain education and training standards for use in the education and training of persons who provide policing functions and other persons governed by this Act;
- (n) operate the Ontario Police College; and
- (o) perform such other duties as are assigned to him or her by or under this Act.

Ontario Police College continued

(2) The police college known as the Ontario Police College in English and the Collège de police de l'Ontario in French is continued for the provision of training with respect to policing.

Fees

(3) The Minister may charge fees for training provided by the Ministry for a purpose set out in clause (1) (l), including training provided by the Ontario Police College.

INFORMATION

Information to Minister in accordance with regulations

4 (1) Police service boards, chiefs of police, special constable employers, prescribed policing providers, the Complaints Director and administrators appointed under Part VII shall provide the Minister with information prescribed by the Minister that is related to the discharge of the Minister's duties under subsection 3 (1) at the frequency and in the manner set out in the regulations made by the Minister.

Information to Minister on request

(2) Police service boards, chiefs of police, special constable employers, prescribed policing providers, the Complaints Director and administrators appointed under Part VII shall provide the Minister with such information as he or she may request from time to time.

Time to comply

(3) The information requested under subsection (2) shall be provided in the form and manner and within the time specified in the Minister's request.

Chief of police may decline

(4) A chief of police may decline to provide information under this section if authorized to do so by the regulations.

Personal information

5 (1) The Minister may collect personal information under subsection 4 (1) or (2), directly or indirectly, only if the collection is necessary for the purpose of discharging the Minister's duties under clause 3 (1) (b), (c), (e), (g), (h), (j) or (k).

Other information serves purpose

(2) The Minister shall not collect or use personal information under subsection (1) if other information will serve the purpose of the collection or use.

Personal information limited to what is reasonably necessary

(3) The Minister shall not collect or use more personal information under subsection (1) than is reasonably necessary to meet the purpose of the collection or use.

Accuracy

(4) Before using personal information collected under subsection (1), the Minister shall take reasonable steps to ensure that the information is as accurate as is necessary for the purpose of the use.

Practices and procedures

- (5) The Minister may only collect personal information under subsection (1), if,
- (a) not more than one unit of the Ministry is prescribed by the Minister to collect and use personal information under subsection (1) on the Minister's behalf; and
 - (b) the prescribed unit of the Ministry has put in place practices and procedures,
 - (i) to protect the privacy of the individuals whose personal information the Minister collects, and to maintain the confidentiality of the information, and
 - (ii) that are approved by the Information and Privacy Commissioner.

De-identification

(6) Where personal information has been collected by the Minister under subsection (1), the prescribed unit of the Ministry shall, subject to the additional requirements, if any, that are prescribed, and in accordance with the practices and procedures approved by the Information and Privacy Commissioner under subclause (5) (b) (ii),

- (a) create a record containing the minimal amount of personal information necessary for the purpose of de-identifying the information and linking it to other information in the custody or control of the Minister; and
- (b) de-identify the personal information.

No other uses and disclosures permitted

(7) Despite any other provision in this Act or the *Freedom of Information and Protection of Privacy Act*, personal information collected under subsection (1) shall not be used or disclosed except as authorized by this section or section 6 or as otherwise required by law.

Limitation on application

(8) Subsections (5), (6) and (7) do not apply with respect to personal information collected under subsection (1) for the purpose of discharging the Minister's duties under clause 3 (1) (c), (h) or (k).

Link

(9) The prescribed unit of the Ministry may link the personal information that has been de-identified under subsection (6) to other de-identified personal information under the custody and control of the Minister or of the Law Enforcement Complaints Agency.

Security

(10) The Minister shall take reasonable measures to secure the personal information collected under subsection (1).

Notice required by s. 39 (2) of FIPPA

(11) If the Minister collects personal information indirectly under subsection (1), the notice required by subsection 39 (2) of the *Freedom of Information and Protection of Privacy Act* may be given by,

- (a) a public notice posted on a Government of Ontario website; or
- (b) any other method that may be prescribed.

Rights of access and correction

(12) Nothing in this section limits the right of an individual under any Act to access and correct personal information about the individual.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 5 of this Act is amended by adding the following subsection: (See: 2019, c. 1, Sched. 1, s. 264 (1))

Prescribed unit

(13) If a unit of the Ministry is prescribed for the purposes of section 5 of the *Correctional Services and Reintegration Act, 2018*, the same unit must be prescribed for the purposes of this section. 2019, c. 1, Sched. 1, s. 264 (1).

Section Amendments with date in force (d/m/y)

2019, c. 1, Sched. 1, s. 264 (1) - not in force

Disclosure for research purpose

6 (1) This section applies with respect to the disclosure for a research purpose of personal information collected by the Minister under section 5.

Circumstances for disclosing personal information

(2) The Minister may disclose collected personal information to a researcher for a research purpose if the researcher,

- (a) submits to the Minister,
 - (i) an application in writing,
 - (ii) a research plan that meets the requirements of subsection (3), and
 - (iii) a copy of the decision of a research ethics board that approves the research plan; and
- (b) enters into an agreement with the Minister that complies with the prescribed requirements.

Research plan

(3) A research plan must be in writing and must set out,

- (a) the affiliation of each person involved in the research;
- (b) the nature and objectives of the research and the public or scientific benefit of the research that the researcher anticipates; and
- (c) any other prescribed matters related to the research.

Consideration by board

(4) When deciding whether to approve a research plan that a researcher submits to it, a research ethics board shall consider the matters that it considers relevant, including,

- (a) whether the objectives of the research can reasonably be accomplished without using the personal information that is to be disclosed;
- (b) whether, at the time the research is conducted, adequate safeguards will be in place to protect the privacy of the individuals whose personal information is being disclosed and to preserve the confidentiality of the information;
- (c) the public interest in conducting the research and the public interest in protecting the privacy of the individuals whose personal information is being disclosed; and
- (d) whether obtaining the consent of the individuals whose personal information is being disclosed would be impractical.

Decision of board

(5) After reviewing a research plan that a researcher has submitted to it, the research ethics board shall provide to the researcher a decision in writing, with reasons, setting out whether the board approves the plan, and whether the approval is subject to any conditions, which must be specified in the decision.

Requirements on researcher

(6) A researcher who receives personal information about an individual under this section shall,

- (a) comply with the conditions, if any, specified by the research ethics board under subsection (5);
- (b) use the information only for the purposes set out in the research plan as approved by the research ethics board;
- (c) not publish the information in a form that could reasonably enable a person to ascertain the identity of the individual;
- (d) not disclose the information except as required by law and subject to the exceptions and additional requirements, if any, that are prescribed;
- (e) not make contact or attempt to make contact with the individual, directly or indirectly, unless the Minister first obtains the individual's consent to being contacted;

- (f) notify the Minister immediately in writing if the researcher becomes aware of any breach of this subsection or the agreement described in clause (2) (b);
- (g) comply with the agreement described in clause (2) (b); and
- (h) comply with the prescribed requirements.

Information and Privacy Commissioner's review of practices

7 (1) The Information and Privacy Commissioner,

- (a) may, from time to time, review the practices of the Minister to determine if the requirements of sections 5 and 6 have been met; and
- (b) shall review the practices and procedures referred to in clause 5 (5) (b) every three years after they are first approved under subclause 5 (5) (b) (ii) and, after the review, the Commissioner may renew the approval.

Duty to assist

(2) The Minister shall co-operate with and assist the Information and Privacy Commissioner in the conduct of a review under subsection (1).

Powers of Information and Privacy Commissioner

(3) The Information and Privacy Commissioner may require the production of such information and records under the custody or control of the Minister as are relevant to the subject matter of the review.

Obligation to assist

(4) If the Information and Privacy Commissioner requires production of information or a record under subsection (3), the Minister shall provide it to the Information and Privacy Commissioner and, at the request of the Information and Privacy Commissioner, shall provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce a record in readable form.

Orders

(5) If, after giving the Minister an opportunity to be heard, the Information and Privacy Commissioner determines that a practice contravenes section 5 or 6 the Information and Privacy Commissioner may order the Minister to do any of the following:

1. Discontinue the practice.
2. Change the practice as specified by the Information and Privacy Commissioner.
3. Destroy personal information collected or retained under the practice.
4. Implement a new practice as specified by the Information and Privacy Commissioner.

Limit on certain orders

(6) The Information and Privacy Commissioner may order, under paragraph 2 or 4 of subsection (5), no more than what is reasonably necessary to achieve compliance with sections 5 and 6.

Offence

8 (1) No person shall,

- (a) wilfully use or disclose personal information in contravention of subsection 5 (7); or
- (b) wilfully fail to comply with an order made by the Information and Privacy Commissioner under paragraph 1 or 3 of subsection 7 (5).

Penalty

(2) A person who contravenes subsection (1) is guilty of an offence and on conviction is liable,

- (a) in the case of a first offence, to a fine of not more than \$5,000; or
- (b) in the case of a second or subsequent offence, to a fine of not more than \$10,000.

Review of information provisions

9 (1) The Minister shall ensure that a review of sections 5 to 8 and any regulations relating to those sections is commenced within two years after the day subsection 5 (1) comes into force.

Consultation with Information and Privacy Commissioner

(2) The person conducting the review shall consult with the Information and Privacy Commissioner.

Report

(3) The person conducting the review shall provide the Minister with a report on the review.

Publication

(4) The Minister shall publish the report on the Internet.

PART III PROVISION OF POLICING

RESPONSIBILITY FOR PROVIDING POLICING

Policing responsibility

10 (1) The police service boards and the Commissioner shall provide adequate and effective policing in the area for which they have policing responsibility in accordance with the needs of the population in the area and having regard for the diversity of the population in the area.

Municipal board policing responsibility

(2) The area for which a municipal board has policing responsibility shall be determined in accordance with Part IV.

First Nation board policing responsibility

(3) The area for which a First Nation board has policing responsibility shall be specified in the regulation made under section 32 constituting the board.

Commissioner policing responsibility

(4) The Commissioner has policing responsibility for every area of Ontario that is outside the areas for which the police service boards have policing responsibility.

First Nation reserve in area of policing responsibility

(5) For greater certainty, a municipal board, or the Commissioner, shall provide adequate and effective policing in accordance with subsection (1) in any First Nation reserve in the area for which the board or the Commissioner has policing responsibility.

Waterways

(6) A police service board, or the Commissioner, shall provide policing in respect of all navigable bodies and courses of water in the area for which the board or the Commissioner has policing responsibility.

Transition

(7) Despite subsections (2) and (5), the Commissioner shall continue to have policing responsibility for a First Nation reserve that would otherwise be within a municipal board's area of policing responsibility if,

- (a) the Commissioner provided policing to the First Nation under the *Police Services Act* immediately before the day this section came into force; and
- (b) no agreement has been made under section 27 to assign policing responsibility for the reserve to a municipal board.

Adequate and effective policing

11 (1) Adequate and effective policing means all of the following functions provided in accordance with the standards set out in the regulations, including the standards with respect to the avoidance of conflicts of interest, and with the requirements of the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*:

1. Crime prevention.
2. Law enforcement.
3. Maintaining the public peace.
4. Emergency response.
5. Assistance to victims of crime.
6. Any other prescribed policing functions.

Does not include certain functions

(2) Adequate and effective policing does not include,

- (a) the enforcement of municipal or First Nation by-laws, other than prescribed by-laws; and
- (b) providing court security in accordance with Part XV.

Exceeding standards

(3) For greater certainty, a police service board or the Commissioner may provide policing or other services that exceed the standards for adequate and effective policing, including providing enforcement of by-laws.

Provision by First Nation Officers

(4) If First Nation Officers provide a policing function under an agreement between the Minister and a First Nation in an area for which a police service board or the Commissioner has policing responsibility, the police service board or the Commissioner is not responsible for providing that function to the extent that it is being provided, in accordance with the standards for adequate and effective policing, by the First Nation Officers.

Prescribed policing provider

12 (1) The regulations may provide that a prescribed policing provider shall provide a policing function in an area that,

- (a) is not among the primary duties of a constable at common law; or
- (b) is a specialized policing function.

Provision by prescribed policing providers

(2) The following rules apply if the regulations provide that a prescribed policing provider shall provide a policing function in an area:

1. The prescribed policing provider shall provide the policing function in the area in accordance with the standards for adequate and effective policing.
2. The police service board, or the Commissioner, that has policing responsibility for the area,
 - i. is not responsible for providing the policing function in the area,
 - ii. shall not provide the policing function in the area if the regulations so provide, and
 - iii. shall cooperate with the prescribed policing provider to enable it to perform the policing function in the area in accordance with the standards for adequate and effective policing.

USE OF PERSONNEL

Members of police service must provide certain functions

13 (1) Subject to section 14, a police service board must use members of the police service maintained by the police service board, or persons who are assisting those members while acting under their direction, to provide policing functions.

Same

(2) Subject to section 14, the Commissioner must use members of the Ontario Provincial Police, or persons who are assisting those members while acting under their direction, to provide policing functions.

Alternative provision

Provision by other police service board or the Commissioner

14 (1) If the regulations so provide, a police service board or the Commissioner may provide a policing function in an area for which the board or the Commissioner has policing responsibility by entering into an agreement with another police service board or the Commissioner to provide the policing function in the area with members of that other board's police service or members of the Ontario Provincial Police, as applicable, or persons assisting those members while acting under their direction.

Provision using prescribed entity

(2) If the regulations so provide and subject to subsection (3), a police service board or the Commissioner may provide a policing function in an area for which the board or the Commissioner has policing responsibility by entering into an agreement with a prescribed entity to have the entity provide the policing function in the area.

Provision of certain functions

(3) A police service board or the Commissioner shall only use members of a police service, or persons assisting those members while acting under their direction, to provide a policing function that,

- (a) is a crime prevention, law enforcement, emergency response or maintaining the public peace policing function; and
- (b) requires the exercise of the powers of a peace officer or a police officer.

Prescribed requirements

(4) A police service board or the Commissioner shall comply with any prescribed requirements in relation to entering into an agreement under this section.

Minister's approval required

(5) The Commissioner requires the Minister's approval to enter into an agreement under subsection (1) or (2).

Contents of an agreement

(6) An agreement under subsection (1) or (2) must,

- (a) identify the policing functions that will be provided under the agreement;
- (b) specify whether payment is required for the performance of the policing functions;
- (c) require the entity to provide information to the police service board or the Commissioner so that the board or the Commissioner will be able to fulfil their legal duties to provide reports under this or any other Act;
- (d) in the case of an agreement under subsection (2), contain an acknowledgment by the entity that it is subject to inspection by the Inspector General; and
- (e) address any other prescribed matters.

Same

(7) If an agreement under subsection (2) is with a prescribed entity that is not an institution within the meaning of the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act*, or is not subject to comparable legislation in another jurisdiction, it must also address,

- (a) access to the records of the entity for the purpose of discharging the obligations of the police service board or Ministry in relation to subsection (8); and
- (b) the protection of personal information in the custody or control of the entity that is related to the provision of policing functions under the agreement.

Prescribed entity records

(8) If a prescribed entity is not an institution within the meaning of the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act*, the entity's records relating to the provision of policing functions pursuant to an agreement made under subsection (2) are, for the purposes of the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act*, as applicable, deemed to be in the custody and control of,

- (a) the police service board, in the case of an agreement with a police service board; or
- (b) the Ministry, in the case of an agreement with the Commissioner.

Non-application

(9) Subsections (7) and (8) do not apply to an entity if subsection 97 (9) applies to the entity.

Copy to Inspector General

(10) The police service board or the Commissioner shall provide a copy of every agreement made under subsection (1) or (2) to the Inspector General.

Compliance with prescribed requirements

(11) A prescribed entity shall comply with any prescribed requirements in relation to the collection, use or disclosure of personal information.

Responsibility of board or Commissioner

(12) The police service board or the Commissioner, as applicable, shall ensure,

- (a) that the policing provided pursuant to an agreement made under subsection (1) or (2) meets the standards for adequate and effective policing; and
- (b) in the case of an agreement made under subsection (2), that the prescribed entity complies with subsection (11).

Personnel to meet prescribed qualifications

15 The Commissioner, every police service board and every prescribed policing provider shall ensure that any people used to provide a policing function meet the prescribed qualifications, if any.

SPECIAL AREAS**Special areas, provision of policing by Commissioner**

16 (1) If, because of the establishment of a business or for any other reason, special circumstances or abnormal conditions in an area make it inequitable, in the Minister's opinion, to impose the responsibility for policing on a police service board or the Commissioner, the Lieutenant Governor in Council may make regulations designating the area as a special area.

Agreement for provision of policing

(2) The person who operates the business or owns the special area shall enter into a written agreement with a police service board or with the Minister with respect to the cost of providing adequate and effective policing in the special area.

Failure to enter into agreement

(3) If the person who operates the business or owns the special area does not enter into an agreement as subsection (2) requires, the Commissioner or police service board that has policing responsibility for the area shall provide adequate and effective policing in the area and charge the policing costs to the person.

Recovery of costs

(4) Subsections 19 (8) to (11) apply with necessary modifications to the charges referred to in subsection (3) of this section.

ADDITIONAL SERVICES AND EXTRA POLICING

Additional services

17 (1) A police service board may enter into a written agreement with a municipality or with any other person to provide policing that is not required as a component of adequate and effective policing, or to provide other specified services, in the area.

Same

(2) The Minister may enter into a written agreement with a municipality or with any other person to have the Commissioner provide policing that is not required as a component of adequate and effective policing, or to provide other specified services, in the area.

Extra policing cost

18 (1) A person who causes a temporary increase in the cost of providing adequate and effective policing in an area by organizing an event, such as a parade or festival, engaging in an activity that involves the closure of a highway, engaging in a commercial enterprise or engaging in any other prescribed activity, may be charged for the cost of that temporary increase by,

- (a) a police service board, if its police service provided the policing; or
- (b) the Minister, if the Commissioner provided the policing.

Agreement

(2) The police service board or the Minister may enter into an agreement with the person referred to in subsection (1) to recover the increase in the cost of providing adequate and effective policing.

No agreement as to cost

(3) If no agreement has been entered into with respect to the cost of the services provided, subsections 19 (8) to (11) apply with necessary modifications to the recovery of the increase in the cost of providing adequate and effective policing.

TEMPORARY ASSISTANCE AND EMERGENCIES

Request for temporary assistance

19 (1) A police service board may, by resolution, request temporary assistance in providing adequate and effective policing from another police service board, the Commissioner or an entity that employs First Nation Officers.

Same, Commissioner

(2) The Commissioner may request temporary assistance in providing adequate and effective policing from a police service board or an entity that employs First Nation Officers.

Temporary assistance notice

- (3) If a police service board or the Commissioner makes a request for temporary assistance under this section,
- (a) he, she or it shall provide notice of the request as soon as possible to the Inspector General and, in the case of a request by the Commissioner, to the Minister; and
 - (b) the police service board, the Commissioner or the entity that employs First Nation Officers who agrees to provide temporary assistance shall provide notice of that agreement as soon as possible to the Inspector General and, in the case of a request by the Commissioner, to the Minister.

Request of chief of police in emergency

(4) A chief of police may request that the Commissioner, another chief of police or an entity that employs First Nation Officers provide emergency assistance with policing if the chief of police is of the opinion that an emergency exists in the area for which the police service board has policing responsibility or, in the case of the Commissioner, the area for which he or she has policing responsibility.

Emergency assistance notice

- (5) If a chief of police makes a request under subsection (4),
- (a) he or she shall provide notice of the request as soon as possible to the Inspector General and, in the case of a request by the Commissioner, to the Minister; and
 - (b) the Commissioner, other chief of police or entity that employs First Nation Officers who agrees to provide emergency assistance shall notify the Inspector General of the agreement as soon as possible.

Rules

- (6) The following rules apply to requests for temporary or emergency assistance made under this section:
1. If the request is made to the Commissioner, he or she shall provide such temporary or emergency assistance as he or she considers necessary and shall stop providing the assistance when he or she considers it appropriate to do so.
 2. If the request is made to a police service board, a chief of police other than the Commissioner or an entity that employs First Nation Officers, the board, chief or entity may,
 - i. decline to provide the assistance, or
 - ii. provide such temporary or emergency assistance as he, she or it considers necessary and stop providing the assistance when he, she or it considers it appropriate to do so.

May include policing functions

- (7) Despite section 13, temporary or emergency assistance provided under this section may include the provision of policing functions.

Cost, police service board or entity

- (8) If no agreement has been entered into with respect to the cost of the temporary or emergency assistance provided under this section, the police service board, or entity that employs First Nation Officers, that provided the assistance may certify the cost of the assistance provided, and the cost shall be paid by the requesting police service board or, in the case of a request by the Commissioner, by the Minister.

Same

- (9) An amount owed to a police service board or to an entity that employs First Nation Officers for providing temporary or emergency assistance under this section, if not collected by other means, may be recovered by a court action as a debt due to the police service board or entity, respectively.

Dispute

- (10) A debtor may dispute the amount claimed in a court action commenced under subsection (9), and the court shall determine the issue and make such order as it considers appropriate in the circumstances.

Cost, Commissioner

- (11) Section 65 applies to the cost of temporary or emergency assistance provided by the Commissioner.

Cost, chief of police request

- (12) Subsections (8) to (11) apply to a request by a chief of police, other than the Commissioner, for emergency assistance under subsection (5) as if the request was made by the chief's police service board.

Inspector General powers

- 20** (1) The Inspector General may make an order requiring a police service board or the Commissioner to provide policing in an area if he or she finds that adequate and effective policing is not being provided in the area or that an emergency exists in the area.

Rules

- (2) The following rules apply to orders made under subsection (1):
1. If the order is made to the Commissioner, he or she shall provide policing in the area until the Inspector General determines otherwise.
 2. If the order is made to a police service board, the board may,
 - i. decline to provide the policing, or
 - ii. provide policing in the area as it considers necessary and stop providing the policing when it considers it appropriate to do so.

Cost

(3) If a police service board, or the Commissioner, is ordered by the Inspector General to provide policing in an area under this section, the cost of the policing may be charged to the police service board, or the Commissioner, that failed to provide the policing, and subsections 19 (8) to (11) apply with necessary modifications to the recovery of the cost of the policing.

Emergencies

21 (1) In an emergency, the Minister may make an agreement with the Crown in right of Canada, or of another province, or with any of its agencies for the provision of policing.

Authority to act as police officers

(2) The agreement authorizes all peace officers to whom it relates to act as police officers in the area to which the agreement relates.

Application

(3) For the purposes of the insurance plan established under the *Workplace Safety and Insurance Act, 1997*, the relationship between a member of a police service and the body that employs him or her continues as if an agreement had not been made under this section.

Expense of calling out Canadian Forces

(4) If the services of the Canadian Forces are provided under this section, the municipality in whose territory the services are required shall pay all the related expenses.

Resignation during emergency prohibited

(5) Subject to section 33 of the *National Defence Act* (Canada), while an agreement made under this section is in force, no member of a police service that has policing responsibility for the area to which the agreement relates shall resign without the consent of the chief of police.

PART IV MUNICIPAL POLICING AND POLICE SERVICE BOARDS

METHODS OF PROVIDING MUNICIPAL POLICING

Methods of providing municipal policing

22 (1) Subject to subsection (2), every municipality may, with the approval of the Minister, do one of the following:

1. Constitute a municipal board to have policing responsibility for the municipality.
2. Enter into a written agreement under section 23 with one or more other municipalities to amalgamate their police services and jointly constitute a municipal board to have policing responsibility for the municipalities.
3. Enter into a written agreement under section 24 with one or more other municipalities to jointly constitute a municipal board to have policing responsibility for the municipalities.
4. Enter into a written agreement under section 26 with another municipality to have that municipality's municipal board assume policing responsibility for the municipality.
5. Enter into a written agreement with a First Nation board to have the board assume policing responsibility for the municipality by requesting an amendment to the regulation that constituted the board under section 32.

Same — different methods in one municipality

(2) In the circumstances listed in subsection (3) and with the Minister's approval, the municipality may allow policing to be provided in more than one way in different areas of the municipality by doing either or both of the following:

1. Providing policing in different ways in different areas by doing more than one of the actions listed in subsection (1).
2. Entering into an agreement with the Minister to have the Commissioner assume policing responsibility for the area.

Circumstances

(3) Subsection (2) applies if,

- (a) the municipality consists of two or more widely dispersed communities or contains, within its boundaries, one or more communities that are remote from the rest of the municipality, and the policing responsibility will be split among those communities; or
- (b) policing has historically been provided to one or more discrete areas of the municipality in a manner that is different from the manner policing is provided in the rest of the municipality, and the split will continue that historic difference.

Only one municipal board to be constituted

(4) Subsection (2) does not permit a municipality to constitute or jointly constitute more than one municipal board.

Criteria for Minister's approval

- (5) The Minister may approve an arrangement to provide policing under subsection (1) or (2) if the Minister is satisfied that,
- (a) the arrangement will result in the provision of adequate and effective policing in the municipality for the foreseeable future; and
 - (b) any prescribed requirements are satisfied.

Same, non-contiguous areas

(6) If the arrangement to provide policing under subsection (1) or (2) involves the delivery of policing by one police service board to two or more areas that are not contiguous, the Minister shall ensure that the effect, if any, of the areas not being contiguous is considered while making the determination described in clause (5) (a).

Maintaining police service

(7) Every municipal board shall maintain a police service and, for greater certainty, shall not maintain more than one police service.

Subject to other boards and agreements

(8) The area for which a municipal board has policing responsibility is subject to the areas of policing responsibility of First Nation boards and to agreements made under section 27 or 76.

Transition

- (9) Despite subsection (1), any police service board that provided policing immediately before the day subsection (1) came into force,
- (a) continues to exist, even without the Minister's approval; and
 - (b) does not require the approval of the Minister to continue providing policing in substantially the same manner as it provided it immediately before the day subsection (1) came into force.

Same

(10) Despite subsection (2), if policing was provided in different manners in discrete areas of the municipality in accordance with the *Police Services Act* immediately before the day subsection (2) came into force, policing may continue to be provided in those manners without the Minister's approval.

Amalgamation of police services

23 (1) Multiple municipalities that have municipal boards may enter into a written agreement to amalgamate their police services and jointly constitute a new municipal board.

Authorization required

(2) The agreement must be authorized by by-laws of the participating municipalities and requires the approval of the Minister.

Contents of amalgamation agreement

- (3) The agreement must specify,
- (a) the composition of the police service board, including,
 - (i) whether the board will be composed of five, seven or nine members,
 - (ii) which municipality shall be entitled to have its head be a member of the board under clause 31 (4) (a), (5) (a) or (6) (a),
 - (iii) which municipality shall appoint a member if the head described in subclause (ii) refuses or is not eligible to become a member of the board, and
 - (iv) which municipality shall appoint the members of the board under clauses 31 (4) (b) and (c), (5) (b) and (c) or (6) (b) and (c) or how those appointments shall be allocated among the municipalities;
 - (b) the amalgamation of the police services and the appointment or transfer of their members;
 - (c) the municipal board's use of the assets and its responsibility for the liabilities associated with the amalgamated police services;
 - (d) the responsibilities of the different municipalities in relation to the estimates of the police service board and the establishing of the budget for the board;

- (e) how the municipalities will jointly discharge the duties of a municipality with respect to the municipal board; and
- (f) any other matter that is necessary or advisable to effect the amalgamation.

Exception, appointments

(4) Appointments to a municipal board for an amalgamated police service may be made before the agreement takes effect.

Application of other requirements

(5) Subject to the regulations, the provisions of this Act that apply to municipal boards apply, with necessary modifications, to joint municipal boards constituted under this section.

Agreement to jointly constitute municipal board

24 (1) Multiple municipalities may enter into a written agreement to jointly constitute a municipal board.

Authorization required

(2) The agreement must be authorized by by-laws of the participating municipalities and requires the approval of the Minister.

Required contents

(3) The agreement must specify,

- (a) the composition of the police service board, including,
 - (i) whether the board will be composed of five, seven or nine members,
 - (ii) which municipality shall be entitled to have its head be a member of the board under clause 31 (4) (a), (5) (a) or (6) (a),
 - (iii) which municipality shall appoint a member if the head described in subclause (ii) refuses or is not eligible to become a member of the board, and
 - (iv) which municipality shall appoint the members of the board under clauses 31 (4) (b) and (c), (5) (b) and (c) or (6) (b) and (c) or how those appointments shall be allocated among the municipalities;
- (b) the responsibilities of the different municipalities in relation to the estimates of the police service board and the establishing of the budget for the board;
- (c) how the municipalities will jointly discharge the duties of a municipality with respect to the municipal board; and
- (d) any other matter that is necessary or advisable to effect the constitution of the police service board.

Application of other requirements

(4) Subject to the regulations, the provisions of this Act that apply to municipal boards apply, with necessary modifications, to joint municipal boards constituted under this section.

Other municipal boards

Application

25 (1) This section applies to any municipality, as defined in subsection 1 (1) of the *Municipal Act, 2001*, that is not listed in the definition of a municipality in subsection 2 (3) of this Act.

Ability to constitute municipal board

(2) A municipality described in subsection (1) may, with the Minister's approval, constitute a municipal board to have policing responsibility for the municipality.

Criteria for Minister's approval

(3) The Minister may approve the new municipal board under subsection (2) if he or she is satisfied that the new board will provide adequate and effective policing for the foreseeable future.

Same

(4) Without restricting the matters the Minister may consider when deciding whether to approve a municipal board under subsection (3), the Minister shall consider the effect of the approval on the entity that would otherwise have policing responsibility for the area and on any other municipalities that might be affected by the decision.

Agreements for provision of policing between municipalities

26 (1) Two municipalities may enter into a written agreement to have one of the municipalities' municipal boards assume policing responsibility for the municipality.

Advisors to municipal board

(2) The municipality that receives policing pursuant to an agreement made under subsection (1) may select a person to advise the other municipality's board with respect to the preparation of its strategic plan.

Term of office

(3) The term of office for a person selected to advise another municipality's board shall be set by the municipality when the person is selected, but shall not exceed the term of office of the municipal council that selected him or her.

Same, reappointment

(4) A person selected to advise another municipality's board may continue to sit after the expiry of the term of office of the municipal council that selected him or her until the selection of his or her successor, and is eligible for reappointment.

Protection from liability

(5) No action or other proceeding for damages shall be instituted against a person selected to advise another municipality's board for any act done in good faith in the execution or intended execution of any duty imposed or power conferred by this Act or for any alleged omission in the execution in good faith of that duty or power.

Termination requirements

(6) A municipality that has entered into an agreement under subsection (1) shall comply with the prescribed requirements, if any, respecting termination of the agreement.

Agreement with First Nation to provide policing

27 (1) A municipality may, with the Minister's approval, enter into a written agreement with a band council of a First Nation to assign policing responsibility for a First Nation reserve that is not within a First Nation board's area of policing responsibility to the municipal board.

Required contents

(2) An agreement under subsection (1) shall address the policing and other services to be provided, the area in which they will be provided and the level at which they will be provided.

Effect on area of policing responsibility

(3) When the agreement comes into effect,

- (a) the First Nation reserve shall become part of the municipal board's area of policing responsibility, if it was not already part of that area; and
- (b) any other entity that previously had policing responsibility for the area no longer has that responsibility.

Termination requirements

(4) A municipality that has entered into an agreement under subsection (1) shall comply with the prescribed requirements, if any, respecting termination of the agreement.

MUNICIPAL DIVERSITY PLANS

Diversity plan

28 (1) Every municipality that maintains a municipal board shall prepare and, by resolution, approve a diversity plan to ensure that the members of the municipal board appointed by the municipality are representative of the diversity of the population in the municipality.

Publication

(2) The plan shall be published on the Internet in accordance with the regulations made by the Minister, if any.

Review and revision

(3) The municipality shall review and, if appropriate, revise the plan at least once every four years.

Report

(4) The municipality shall publish reports on the implementation of the plan on the Internet in accordance with the regulations made by the Minister, if any.

Transition

(5) A municipality's first diversity plan under subsection (1) shall be approved before the later of,

- (a) 12 months after the day this section comes into force; and
- (b) 12 months after the municipality constitutes its municipal board.

Promotion of appointments by municipality

29 (1) If the need to appoint a new member of a police service board by resolution of a municipality is reasonably foreseeable, the municipality shall take reasonable steps to promote the availability of the appointment to members of demographic groups that have been historically underrepresented on police service boards, including racialized groups and First Nation, Inuit and Métis communities.

Promotion by Minister

(2) The Minister shall take reasonable steps to promote the availability of public appointments to police service boards to members of demographic groups that have been historically underrepresented on police service boards, including racialized groups and First Nation, Inuit and Métis communities.

Reports by Minister

(3) The Minister shall publish an annual report on the Internet on the steps taken to ensure that public appointees to municipal boards reflect the diversity of the population in the area for which the municipal boards have policing responsibility.

Definition

(4) In this section,

“public appointment” means an appointment by the Lieutenant Governor in Council or the Minister, and “public appointee” has a corresponding meaning.

Dissolution of municipal board

30 (1) A municipality that maintains a municipal board may, with the approval of the Minister, dissolve the board.

Criteria for Minister’s approval

(2) The Minister may approve the dissolution if he or she is satisfied that appropriate arrangements have been made for the provision of adequate and effective policing in the area after the board is dissolved.

Inspector General

(3) The Minister may ask the Inspector General to investigate a municipality and report on whether appropriate arrangements have been made for the provision of adequate and effective policing in the affected area if the municipal board is dissolved.

MUNICIPAL BOARDS

Municipal boards

Name

31 (1) A municipal board shall be known as (*insert name of municipality*) Police Service Board and may also be known as Commission de service de police de (*insert name of municipality*).

Number of board members

(2) The municipal board shall be composed of five members unless the municipality passes a resolution to change the number of members under subsection (3).

Resolution to determine board size

(3) The municipality may determine, by resolution, that its municipal board shall be composed of five, seven or nine members.

Five-member boards

(4) A municipal board that is composed of five members shall consist of,

- (a) the head of the municipal council or, if the head chooses not to be or is ineligible to be a member of the board, another member of the municipal council appointed by resolution of the municipality;
- (b) one member of the municipal council appointed by resolution of the municipality;
- (c) one person appointed by resolution of the municipality, who is neither a member of the municipal council nor an employee of the municipality; and
- (d) two persons appointed by the Lieutenant Governor in Council.

Seven-member boards

(5) A municipal board that is composed of seven members shall consist of,

- (a) the head of the municipal council or, if the head chooses not to be or is ineligible to be a member of the board, another member of the municipal council appointed by resolution of the municipality;

- (b) two members of the municipal council appointed by resolution of the municipality;
- (c) one person appointed by resolution of the municipality, who is neither a member of the municipal council nor an employee of the municipality; and
- (d) three persons appointed by the Lieutenant Governor in Council.

Nine-member boards

- (6) A municipal board that is composed of nine members shall consist of,
- (a) the head of the municipal council or, if the head chooses not to be or is ineligible to be a member of the board, another member of the municipal council appointed by resolution of the municipality;
 - (b) three members of the municipal council appointed by resolution of the municipality;
 - (c) one person appointed by resolution of the municipality, who is neither a member of the municipal council nor an employee of the municipality; and
 - (d) four persons appointed by the Lieutenant Governor in Council.

L.G. in C. vacancies

- (7) If the position of a member of a municipal board appointed by the Lieutenant Governor in Council becomes vacant, the Minister may appoint a replacement to act until the Lieutenant Governor in Council makes a new appointment.

Reduced size

- (8) If the municipality reduces the size of its municipal board,
- (a) the appointments for all members of the board are terminated; and
 - (b) the Lieutenant Governor in Council and the municipality, as applicable, shall appoint new members of the board to meet the requirements set out in subsections (4) to (6), which may include reappointments for some of the terminated members.

Increased size

- (9) If the municipality increases the size of its municipal board, the appointments for all members of the board continue and new members shall be appointed to meet the requirements set out in subsections (4) to (6).

Not enough eligible municipal council members

- (10) If the requirements of clause (4) (a), (4) (b), (5) (a), (5) (b), (6) (a) or (6) (b) cannot be satisfied because not enough members of the municipal council are eligible to be members of the board, the municipality may, instead, appoint persons who are neither a member of the municipal council nor an employee of the municipality to the extent necessary to ensure that the full number of persons are appointed under those clauses.

Transition, existing members

- (11) Subject to subsection (12), the members of the municipal board who are in office immediately before the day this subsection comes into force shall continue in office as members of the board until the expiration of the terms for which they were appointed.

Same

- (12) A member of the municipal board appointed by resolution of a municipality who is in office immediately before the day this subsection comes into force may continue to sit after the expiry of his or her term of office until the appointment of his or her successor.

Transition, existing boards

- (13) Despite subsection (2), a municipal board may continue to have the number of members that it had under the *Police Services Act* until the earlier of,
- (a) the day the municipality passes a resolution under subsection (3); or
 - (b) the day that a new municipal council is organized following the first regular municipal election after the day this subsection comes into force.

Same

- (14) If the municipality does not pass a resolution under subsection (3) before the day referred to in clause (13) (b), subsection (2) will begin applying to the municipal board on that day and,
- (a) if the application of subsection (2) has the effect of reducing the number of members of the municipal board, the procedure in subsection (8) shall be followed; and

- (b) if the application of subsection (2) has the effect of increasing the number of members of the municipal board, the procedure in subsection (9) shall be followed.

FIRST NATION BOARDS

First Nation boards

32 (1) A band council of a First Nation may request that the Minister constitute a First Nation board to provide adequate and effective policing in a First Nation reserve or any other specified area.

Joint request

(2) Multiple band councils may jointly make a request to constitute a board under subsection (1).

Application to joint boards

(3) Subject to the regulations, the provisions of this Act that apply to First Nation boards apply, with necessary modifications, to joint First Nation boards.

Contents of request

- (4) A request made under subsection (1) must specify,
- (a) the area for which the proposed board would have policing responsibility;
 - (b) the composition of the proposed board;
 - (c) the method of appointing members of the proposed board;
 - (d) the name of the proposed board; and
 - (e) the proposed term of office of members of the proposed board.

Minister's request

(5) The Minister may request any additional information from the band council to assist in the Minister's consideration of the request.

Considerations

(6) The Minister shall consider the request made under subsection (1) and determine whether or not to constitute the board, having regard to the possibility of funding or other assistance being provided to the board and any other prescribed matters.

First Nation board regulations

- (7) The Minister may make regulations,
- (a) constituting a First Nation board to have policing responsibility for the requested area;
 - (b) governing the composition of the First Nation board;
 - (c) specifying the name of the First Nation board;
 - (d) governing appointments to the First Nation board;
 - (e) governing the term of office of members of the First Nation board.

Consistency with request

(8) A regulation made under subsection (7) must be consistent with the request made under subsection (1).

Maintaining police service

(9) Every First Nation board shall maintain a police service and, for greater certainty, shall not maintain more than one police service.

Considerations for amendment or revocation

- (10) In determining whether to amend or revoke a regulation made under subsection (7), the Minister shall consider,
- (a) the importance of First Nations determining the means by which culturally responsive policing is provided on their First Nation reserves; and
 - (b) the effect of the revocation or amendment on the long-term viability of providing policing through First Nation boards.

Limitation on amendment or revocation

(11) The Minister shall not amend or revoke a regulation made under subsection (7) unless the Minister is satisfied that appropriate arrangements that satisfy any prescribed requirements have been made for the First Nations that are in the First Nation board's area of policing responsibility to receive adequate and effective policing after the amendment or revocation takes effect and at least one of the following conditions is met:

1. The amendment or revocation is consistent with a request from all of the band councils of the First Nations that are in the First Nation board's area of policing responsibility.
2. There has been a material change in the circumstances on which the regulation is based.
3. The First Nation board was dissolved under section 126.
4. The amendment is required to give effect to an agreement between the First Nation board and a municipality to have the First Nation board assume policing responsibility for the municipality.
5. The amendment is editorial or technical in nature.

Limitation on revocation

(12) In addition to the requirements set out in subsection (11), the Minister shall not revoke a regulation made under subsection (7) unless he or she is satisfied that,

- (a) the police service board and the members of the police service have made an agreement dealing with severance pay; or
- (b) the issue of severance pay has been referred to arbitration.

Arbitration

(13) If the issue of severance pay cannot be referred to arbitration under Part XIII, the board or the members of the police service may apply to the Commission Chair to appoint an arbitrator.

Extension to other First Nation reserve

(14) In addition to the requirements set out in subsection (11), the Minister shall not amend a regulation made under subsection (7) to increase a First Nation board's area of policing responsibility to include the First Nation reserve of another First Nation unless the amendment is consistent with a request from all of the First Nations whose reserves will be included in the increased area.

Same, notice and comments

(15) If the Minister intends to amend or revoke a regulation made under subsection (7) in a manner that is not consistent with a request described in paragraph 1 of subsection (11), the Minister shall provide notice containing a description of the proposed regulation to the First Nation board and to the band councils of the First Nations that are in the First Nation board's area of policing responsibility and provide an opportunity for them to comment on it in writing.

Same, written reasons

(16) If the Minister decides to amend or revoke the regulation after considering the comments provided under subsection (15), the Minister shall provide written reasons for his or her decision to the entities that received the notice.

Agreements with First Nation boards

(17) The Minister may enter into a written agreement with a First Nation board to provide it with funding or other assistance, including funding with respect to the enforcement of First Nation by-laws, subject to such terms or conditions as may be specified in the agreement.

Other matters

(18) An agreement under subsection (17) may address any other matters, including the mediation, arbitration or resolution of disputes that may arise in relation to the agreement.

No contracting out of arbitration

(19) For greater certainty, an agreement under subsection (17) cannot override the arbitration process set out in section 51.

APPOINTMENT OF POLICE SERVICE BOARD MEMBERS

Appointment

Considerations

33 (1) In appointing or reappointing a member of a police service board, the appointing person or body shall consider,

- (a) the need to ensure that the police service board is representative of the area it serves, having regard for the diversity of the population in the area;
- (b) the need for the police service board to have members with the prescribed competencies, if any; and
- (c) any applicable diversity plan.

Police record check

(2) The appointing person or body must consider the results of a potential appointee's police record check that was prepared within the past 12 months before appointing him or her as a member of a police service board.

Revocation of appointments

(3) For greater certainty, the power to appoint a member of a police service board includes the power to revoke the appointment and to appoint a replacement.

Other ineligible persons

(4) The following persons are not eligible to be members of a police service board:

1. A judge or justice of the peace.
2. A member of a police service, a special constable or a First Nation Officer.
3. Any person who practises criminal law as a defence counsel or as a prosecutor.
4. A director, officer or employee of a prescribed policing provider.
5. Any other prescribed persons.

Former members of a police service

(5) A former member of a police service is not eligible to be a member of a police service board unless,

- (a) the police service board does not maintain a police service that the person was a member of; and
- (b) at least one year has passed since the person ceased to be a member of any police service.

Seat vacated by ineligibility

(6) A member of a police service board shall vacate his or her seat if he or she becomes ineligible to be on the board.

Notice of vacancies

(7) If a seat becomes vacant, the police service board shall notify the person or body responsible for appointing a replacement.

Ministerial recommendations

(8) The Minister shall make recommendations to the Lieutenant Governor in Council regarding appointments to police service boards in accordance with the regulations, if any.

Transition

(9) Subsections (4) and (5) do not prevent a person who was a member of a police service board immediately before those subsections came into force from serving the remainder of their term.

Members appointed by municipality

Term of office

34 (1) The term of office for a member of a municipal board appointed by resolution of a municipality shall be set out by the municipality in his or her appointment, but shall not exceed the term of office of the municipal council that appointed the member.

Same

(2) A member of a municipal board appointed by resolution of a municipality may continue to sit until the earlier of,

- (a) six months after the expiry of his or her term of office; or
- (b) the day the member's successor is appointed by the municipality.

Vacancy

(3) If the position of a member of a municipal board who is appointed by resolution of a municipality or who holds office by virtue of being the head of a municipality becomes vacant, the board shall notify the municipality and the municipality shall appoint a replacement.

Remuneration

(4) The members of the municipal board who are appointed by the Lieutenant Governor in Council or by the Minister shall be remunerated in accordance with the regulations made by the Minister.

Oath, training and conduct

Oath of office

35 (1) A member of a police service board shall, at the time of his or her appointment as a member of the board, take an oath or affirmation of office in the form prescribed by the Minister.

Required training

- (2) A member of a police service board or of a committee of the board shall successfully complete the following training:
1. The training approved by the Minister with respect to the role of a police service board and the responsibilities of members of a board or committee.
 2. The training approved by the Minister with respect to human rights and systemic racism.
 3. The training approved by the Minister that promotes recognition of and respect for,
 - i. the diverse, multiracial and multicultural character of Ontario society, and
 - ii. the rights and cultures of First Nation, Inuit and Métis Peoples.
 4. Any other training prescribed by the Minister.

If training not completed

- (3) A member of a police service board or committee shall not exercise the powers or perform the duties of a board or committee member until the member has successfully completed the training described in paragraph 1 of subsection (2).

Same

- (4) A member of a police service board or committee shall not continue to exercise the powers or perform the duties of their position after the period prescribed by the Minister following their appointment until the member has successfully completed the training described in paragraphs 2 and 3 of subsection (2).

Same

- (5) The regulations made by the Minister may provide that a member of a police service board or committee shall not exercise specified powers or perform specified duties, or shall not continue to exercise specified powers or perform specified duties, until the member has completed specified training prescribed under paragraph 4 of subsection (2) within the timeline set out in the regulations.

Code of conduct

- (6) Every member of a police service board shall comply with the prescribed code of conduct.

Election of chair

- 36** (1) The members of a police service board shall elect a chair at the board's first meeting in each year.

Vice-chair

- (2) The members of a police service board may also elect a vice-chair at the first meeting in each year, and the vice-chair shall act as the chair if the chair is absent or if the chair's position is vacant.

POLICE SERVICE BOARD DUTIES AND POWERS**Police service board duties**

- 37** (1) A police service board shall,
- (a) provide adequate and effective policing in the area for which it has policing responsibility as required by section 10;
 - (b) employ members of the police service;
 - (c) appoint members of the police service as police officers;
 - (d) recruit and appoint the chief of police and any deputy chief of police and determine their remuneration and working conditions, taking their submissions into account;
 - (e) prepare and adopt a diversity plan to ensure that the members of the police service reflect the diversity of the area for which the board has policing responsibility;
 - (f) monitor the chief of police's performance;
 - (g) conduct a review of the chief of police's performance at least annually in accordance with the regulations made by the Minister, if any;
 - (h) monitor the chief of police's decisions regarding the restrictions on secondary activities set out in section 89 and review the reports from the chief of police on those decisions;
 - (i) monitor the chief of police's handling of discipline within the police service;
 - (j) ensure that any police facilities, including police lock-ups, owned by the board comply with the prescribed standards, if any; and
 - (k) perform such other duties as are assigned to it by or under this or any other Act, including any prescribed duties.

Prescribed standards

(2) A police service board shall comply with the prescribed standards, if any, with respect to the exercise of its powers and the performance of its duties under this Act.

Transition

(3) Any police force maintained by a board that was in existence under the *Police Services Act* immediately before that Act was repealed continues as a police service maintained by a police service board under this Act, and any member of the police force at that time, including the chief of police and any deputy chief of police, continues to be a member of the police service under this Act.

Police service board policies

38 (1) A police service board shall establish policies respecting,

- (a) the administration of the police service;
- (b) the provision of adequate and effective policing in accordance with the needs of the population of the area for which it has policing responsibility;
- (c) disclosure by the chief of police of personal information about individuals;
- (d) disclosure of secondary activities under section 89 and decisions under that section;
- (e) the handling of discipline within the police service;
- (f) subject to subsection (4), the indemnification of members of the police service for legal costs; and
- (g) any other prescribed matters.

Other policies

(2) In addition to the policies required by subsection (1), a police service board may establish policies respecting any other matters related to the police service or the provision of policing.

Consultations and considerations

(3) A First Nation board that has policing responsibility for a First Nation reserve shall,

- (a) consult a person identified by the band council regarding the cultural traditions of the First Nation before establishing a policy under clause (1) (b); and
- (b) consider the cultural traditions of the First Nation while establishing the policy.

Indemnification policy

(4) The police service board is not required to establish a policy described in clause (1) (f) if it is required to indemnify members of the police service in accordance with an agreement under Part XIII.

No policies for certain matters

(5) The police service board shall not make policies with respect to specific investigations, the conduct of specific operations, the management or discipline of specific police officers or other prescribed matters.

Other limitations on policies

(6) The police service board shall not make policies that would,

- (a) require a member of the police service to do something or refrain from doing something where this would be inconsistent with his or her duties under this Act or the regulations; or
- (b) prohibit a member of the police service from attempting to collect information for the purpose of investigating an offence or assisting with the prosecution of an offence.

Publication

(7) The police service board shall publish the policies referred to in subsections (1) and (2) on the Internet in accordance with the regulations made by the Minister, if any.

Strategic plan

39 (1) The police service board shall, in accordance with the regulations, if any, prepare and adopt a strategic plan for the provision of policing, which shall address at least the following matters:

1. How the police service board will ensure the provision of adequate and effective policing in accordance with the needs of the population of the area.
2. The objectives, priorities and core functions of the police service.

3. Quantitative and qualitative performance objectives and indicators of outcomes relating to,
 - i. the provision of community-based crime prevention initiatives, community patrol and criminal investigation services,
 - ii. community satisfaction with the policing provided,
 - iii. emergency calls for service,
 - iv. violent crime and clearance rates for violent crime,
 - v. property crime and clearance rates for property crime,
 - vi. youth crime and clearance rates for youth crime,
 - vii. police assistance to victims of crime and re-victimization rates,
 - viii. interactions with persons described in paragraphs 4 and 5 of this subsection,
 - ix. road safety, and
 - x. any other prescribed matters.
4. Interactions with,
 - i. youths,
 - ii. members of racialized groups, and
 - iii. members of First Nation, Inuit and Métis communities.
5. Interactions with persons who appear to have a mental health condition.
6. Information technology.
7. Resource planning.
8. Police facilities.
9. Any other prescribed matters.

Same

(2) The strategic plan must also provide an overview of the consultations that were conducted under subsection (3) and state whether and, if applicable, how the needs and concerns regarding policing identified during the consultations have been addressed by the plan.

Consultations

- (3) In preparing or revising the strategic plan, the police service board shall consult with,
- (a) the chief of police;
 - (b) the municipal council of any municipalities in the board's area of policing responsibility;
 - (c) the band councils of any First Nations in the board's area of policing responsibility;
 - (d) groups representing diverse communities in the board's area of policing responsibility;
 - (e) school boards, community organizations, businesses and members of the public in the board's area of policing responsibility; and
 - (f) any other prescribed persons, organizations or groups.

Considerations

- (4) In preparing or revising the strategic plan, the police service board shall consider, at a minimum,
- (a) the results of the consultations conducted under subsection (3);
 - (b) any community safety and well-being plans adopted by the municipalities or First Nations that are in the board's area of policing responsibility; and
 - (c) the needs of members of diverse communities in the board's area of policing responsibility, including the needs of members of racialized groups and of First Nation, Inuit and Métis communities.

Review and revision

(5) The police service board shall review and, if appropriate, revise the strategic plan in accordance with the regulations, if any, at least once every four years.

Publication

(6) The police service board shall publish the strategic plan on the Internet in accordance with the regulations made by the Minister, if any.

Police service board directions

40 (1) The police service board may give directions to the chief of police.

No direction to other members of the police service

(2) For greater certainty, the police service board shall not direct members of the police service other than the chief of police.

No direction by individual members of the board

(3) No individual member of a police service board shall direct the chief of police or, for greater certainty, any other member of the police service.

No directions for certain matters

(4) The police service board shall not direct the chief of police with respect to specific investigations, the conduct of specific operations, the discipline of specific police officers, the day-to-day administration of the police service or other prescribed matters.

Other information serves purpose

(5) The police service board shall not direct the chief of police to provide personal information to the board under subsection (1) if other information will serve the purpose for which the information is to be used.

Personal information limited to what is reasonably necessary

(6) The police service board shall not direct the chief of police to provide more personal information to the board under subsection (1) than is reasonably necessary to meet the purpose for which the information is to be used.

Other limitations on directions

(7) The police service board shall not direct the chief of police to do anything that would,

- (a) contravene this Act or the regulations, or any other Act or regulation;
- (b) require a member of the police service to do something or refrain from doing something where this would be inconsistent with his or her duties under this Act or the regulations; or
- (c) prohibit a member of the police service from attempting to collect information for the purpose of investigating an offence or assisting with the prosecution of an offence.

Chief of police may decline

(8) A chief of police may decline to provide information pursuant to a direction from the police service board if authorized to do so by the regulations.

Publication

(9) The police service board shall publish any directions given to the chief of police under subsection (1) on the Internet in accordance with the regulations made by the Minister, if any.

Reporting and information sharing**Annual report**

41 (1) On or before June 30 in each year, the police service board shall file an annual report with its municipality or band council regarding,

- (a) the implementation of the board's strategic plan and the achievement of the performance objectives identified in the strategic plan;
- (b) the affairs of the police service;
- (c) the provision of policing as it relates to any community safety and well-being plans adopted by the municipalities or First Nations that are in the board's area of policing responsibility; and
- (d) any other prescribed matters.

Publication

(2) The police service board shall publish the annual report referred to in subsection (1) on the Internet in accordance with the regulations made by the Minister, if any.

Information sharing protocol

(3) The police service board shall make best efforts to negotiate and enter into a protocol with its municipality or band council that addresses the sharing of information with the municipality or band council, including the type of information to be shared and the frequency for sharing such information.

Information to be provided

(4) Regardless of the existence of an information sharing protocol, the police service board shall provide the municipality or band council, on request, with any information, other than personal information, relevant to the preparation or review of the community safety and well-being plan or to the board's estimates.

ADMINISTRATION AND FINANCES**Delegation**

42 (1) A police service board may, by by-law,

- (a) establish a committee and delegate any of the board's powers under this Act to the committee; or
- (b) if any power of the board under this Act is prescribed for the purposes of this section, delegate that power to an employee of the board who is not a member of the police service or to the chief of police.

Content of by-law

(2) A by-law made under subsection (1) may govern the name, powers, duties and quorums of the committee and may, subject to subsections (3), (4) and (5), govern the composition of the committee and appointment of individuals to the committee.

Composition

(3) A committee shall be composed of,

- (a) at least two members of the police service board, subject to subsection (4); and
- (b) any number of additional members, as long as a majority of the committee is composed of members of the police service board.

Exception

(4) Only one member of the police service board is required to sit on a committee if the board's power to bargain under Part XIII is the only power that has been delegated to the committee.

Eligibility

(5) An individual is not eligible to be an additional member of a committee if he or she would not be eligible to be a member of the police service board.

Meetings

43 (1) The police service board shall hold at least four meetings each year.

Quorum

(2) A majority of the members of the police service board constitutes a quorum.

Proceedings open to the public

(3) Subject to section 44, meetings conducted by the police service board, or by a committee of the board, shall be open to the public.

Record of meeting

(4) The police service board shall record without note or comment all resolutions, decisions and other proceedings at the meeting, whether it is open to the public or not.

Notice

(5) The police service board or the committee, as applicable, shall publish notice of a meeting that is open to the public on the Internet, subject to the regulations made by the Minister, if any.

Timing of notice

(6) The notice shall be published at least seven days before the meeting, except in extraordinary circumstances.

Contents of notice

(7) The notice must include,

- (a) the proposed agenda for the meeting; and

- (b) either,
 - (i) the record of the most recent meeting of the police service board that was open to the public, other than the record of any part of the meeting that was closed to the public, or
 - (ii) instructions on how a member of the public may access the record referred to in subclause (i).

When meetings may be closed to public

Consideration

- 44** (1) Before holding a meeting, a police service board, or a committee of the board, shall,
- (a) consider whether to close the meeting or part of the meeting to the public, having regard to the matters listed in subsections (2) and (3); and
 - (b) if the board or committee decides to close the meeting or part of the meeting, state by resolution,
 - (i) the fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting, or
 - (ii) in the case of a meeting under subsection (6), the fact of the holding of the closed meeting, the general nature of its subject-matter and that it is to be closed under that subsection.

Subject matter

- (2) The meeting or part of the meeting may be closed to the public if the subject matter being considered is,
- (a) the security of the property of the board;
 - (b) personal matters about an identifiable individual, including members of the police service or any other employees of the board;
 - (c) a proposed or pending acquisition or disposition of land by the board;
 - (d) labour relations or employee negotiations;
 - (e) litigation or potential litigation affecting the board, including matters before administrative tribunals;
 - (f) advice that would be inadmissible in a court by reason of any privilege under the law of evidence, including communications necessary for that purpose;
 - (g) information explicitly supplied in confidence to the board by Canada, a province or territory or a Crown agency of any of them, a municipality or a First Nation;
 - (h) a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
 - (i) a trade secret or scientific, technical, commercial or financial information that belongs to the board and has monetary value or potential monetary value;
 - (j) a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the board;
 - (k) information that section 8 of the *Municipal Freedom of Information and Protection of Privacy Act* would authorize a refusal to disclose if it were contained in a record; or
 - (l) an ongoing investigation respecting the police service board.

When meetings must be closed to the public

- (3) A meeting or part of a meeting of a police service board, or of a committee of the board, shall be closed to the public if the subject matter being considered is a request under the *Municipal Freedom of Information and Protection of Privacy Act*.

Duty of confidentiality

- (4) The members of the board or committee shall keep any matter considered in a meeting closed under subsection (2) or (3) confidential, including by keeping confidential any information obtained for the purpose of considering the confidential matter, except,
- (a) for the purpose of complying with an inspector exercising their powers or duties under this Act;
 - (b) as may otherwise be required in connection with the administration of this Act, the *Special Investigations Unit Act, 2019* or the regulations made under either of them;
 - (c) as may be required for a law enforcement purpose; or

(d) where disclosure is otherwise required by law.

Disclosure by resolution

(5) Despite subsection (4), a police service board may, by resolution, disclose or authorize a board member to disclose any matter considered in a meeting closed under subsection (2) or (3), which may include disclosing information obtained for the purpose of considering the confidential matter.

Educational or training sessions

(6) A meeting of a police service board, or of a committee of the board, may be closed to the public if the following conditions are both satisfied:

1. The meeting is held for the purpose of educating or training the members of the board or of the committee.
2. At the meeting, no member of the board or committee considers or otherwise deals with any matter in a way that materially advances the business or decision-making of the board.

Evidence of by-laws

45 A document purporting to be a by-law of the police service board signed by a member or purporting to be a copy of such a by-law certified correct by a member is admissible in evidence without proof of the signature or authority of the person signing.

Rules and procedures

46 (1) Subject to the regulations made by the Minister, if any, a police service board shall establish its own rules and procedures in performing its duties under this Act and the regulations.

Legislation Act, 2006

(2) Part III of the *Legislation Act, 2006* does not apply to the rules and procedures established under subsection (1) of this section.

Liability

47 (1) A police service board is liable for the acts or omissions of members of its police service committed in the course of their employment.

Indemnification by police service board

(2) A police service board may, in accordance with the policies established under clause 38 (1) (f), indemnify a member of its police service for reasonable legal costs incurred,

- (a) in the defence of a civil proceeding, if the member is not found to be liable;
- (b) in the defence of a criminal prosecution, if the member is found not guilty; or
- (c) in respect of any other proceeding in which the member's manner of execution of the duties of his or her employment was an issue, if the member is found to have acted in good faith.

Agreement

(3) An agreement under Part XIII may provide for indemnification for the legal costs of members of the police service, except the legal costs of a member who is found guilty of a criminal offence, and, if it provides for such an indemnification, subsection (2) of this section does not apply and the police service board shall indemnify members in accordance with the agreement.

Municipality responsible for police service board's liabilities

(4) The municipality is responsible for the liabilities incurred by the police service board under subsections (1), (2) and (3).

Exception, officer appointed under the *Interprovincial Policing Act, 2009*

(5) This section does not apply in respect of a police officer appointed under the *Interprovincial Policing Act, 2009*.

Protection from personal liability

48 (1) No action or other proceeding shall be instituted against a member of a police service board for any act done in good faith in the execution or intended execution of any duty imposed or power conferred by this Act, the regulations or the by-laws, or for any alleged omission in the execution in good faith of that duty or power.

Police service board's liability

(2) Subsection (1) does not relieve a police service board of liability for a member's acts or omissions, and the board is liable as if that subsection had not been enacted and as if the member were the board's employee.

Police service board may contract, sue and be sued

49 (1) A police service board may contract, sue and be sued in its own name.

Members not liable for police service board's contracts

(2) The members of a police service board are not personally liable for the board's contracts.

Municipal board finances

50 (1) A municipality that maintains a municipal board shall provide the board with sufficient funding to,

- (a) provide adequate and effective policing in the municipality; and
- (b) pay the expenses of the board's operation, other than the remuneration of board members.

Estimates

(2) A municipal board shall submit operating and capital estimates to the municipality that will show, separately, the amounts that will be required to,

- (a) provide adequate and effective policing in the municipality, including the amounts required to provide the police service with required equipment and facilities, having regard for the various ways that the board can discharge this obligation; and
- (b) pay the expenses of the board's operation, other than the remuneration of board members.

Same

(3) The format of the estimates, the period that they cover and the timetable for their submission shall be determined by the municipality.

Budget

(4) Upon reviewing the estimates, the municipality shall establish an overall budget for the municipal board for the purposes described in clauses (1) (a) and (b) and, in doing so, the municipality is not bound to adopt the estimates submitted by the municipal board.

Same

(5) In establishing an overall budget for the municipal board, the municipality does not have the authority to approve or disapprove specific items in the estimates.

Dispute

(6) If the municipal board is not satisfied that the budget established for it by the municipality is sufficient for the purposes described in clauses (1) (a) and (b),

- (a) the municipal board and the municipality may jointly apply to the Commission Chair to appoint a conciliation officer to attempt to resolve the matter; or
- (b) the municipal board may give the municipality written notice referring the matter to arbitration.

Conciliation procedure

(7) If the parties jointly apply to appoint a conciliation officer, subsections 226 (2), (3), (4) and (6) apply to the conciliation, with necessary modifications.

No arbitration while conciliation underway

(8) After making a joint application under clause (6) (a), the municipal board shall not give the municipality written notice referring the matter to arbitration until a conciliation officer has been appointed, endeavoured to effect an agreement and reported to the Commission Chair and the Commission Chair has informed the parties of the conciliation officer's report.

Arbitrator

(9) The municipal board and the municipality may jointly appoint an arbitrator within 60 days after the notice described in clause (6) (b) is provided to the municipality.

Appointment by Commission Chair

(10) The Commission Chair shall appoint an arbitrator if,

- (a) the municipal board and the municipality do not jointly appoint an arbitrator within the time period set out in subsection (9); or
- (b) the municipal board and the municipality jointly apply to the Commission Chair requesting the appointment of an arbitrator.

Findings

(11) If the municipality demonstrates that the municipal board could reasonably have entered into an agreement under section 14 to have policing functions provided in a manner that meets the applicable standards for adequate and effective

policing and at a lower cost than is set out in the estimates, the arbitrator shall not find that the budget is insufficient to the extent of the amount that could have been saved by entering into the agreement.

Compliance

(12) The municipality shall amend the budget for the municipal board in accordance with the arbitrator's decision.

Fees and expenses

(13) The Arbitration and Adjudication Commission shall pay the fees and any prescribed types of expenses of the arbitrator.

Funding review, First Nation board

51 (1) This section applies if a First Nation board believes that the funding it receives from the Minister and from all other sources is not sufficient to,

- (a) provide adequate and effective policing in the area for which it has policing responsibility, including the amounts required to provide the police service with required equipment and facilities, having regard for the various ways that the board can discharge this obligation; and
- (b) pay the expenses of the board's operation.

Dispute

- (2) If a First Nation board is not satisfied that the funding is sufficient for the purposes described in clauses (1) (a) and (b),
- (a) the First Nation board and the Minister may jointly apply to the Commission Chair to appoint a conciliation officer to attempt to resolve the matter; or
 - (b) the First Nation board may give the Minister written notice referring the matter to arbitration.

Conciliation procedure

(3) If the parties jointly apply to appoint a conciliation officer, subsections 226 (2), (3), (4) and (6) apply to the conciliation, with necessary modifications.

No arbitration while conciliation underway

(4) After making a joint application under clause (2) (a), the First Nation board shall not give the Minister written notice referring the matter to arbitration until a conciliation officer has been appointed, endeavoured to effect an agreement and reported to the Commission Chair and the Commission Chair has informed the parties of the conciliation officer's report.

Arbitrator

(5) The First Nation board and the Minister may jointly appoint an arbitrator within 60 days after the notice described in clause (2) (b) is provided to the Minister.

Appointment by Commission Chair

- (6) The Commission Chair shall appoint an arbitrator if,
- (a) the First Nation board and the Minister do not jointly appoint an arbitrator within the time period set out in subsection (5); or
 - (b) the First Nation board and the Minister jointly apply to the Commission Chair requesting the appointment of an arbitrator.

Considerations

(7) In determining the matter, the arbitrator must consider whether any First Nation board policies intended to reflect the cultural traditions of the First Nations that are in the board's area of policing responsibility affect the funding required to provide adequate and effective policing.

Findings

(8) If the Minister demonstrates that the First Nation board could reasonably have entered into an agreement under section 14 to have policing functions provided in a manner that meets the applicable standards for adequate and effective policing and at a lower cost than the funding provided to the board, the arbitrator shall not find that the funding is insufficient to the extent of the amount that could have been saved by entering into the agreement.

Decision

(9) The Minister shall provide additional funding if the arbitrator determines that additional funding is required.

Fees and expenses

(10) The Arbitration and Adjudication Commission shall pay the fees and any prescribed types of expenses of the arbitrator.

Aid to survivors of deceased member of municipal police service

52 A municipality may grant financial or other assistance for the benefit of the surviving spouses and children of members of the municipal police service who die from injuries received or illnesses contracted in the discharge of their duties.

MISCELLANEOUS

Termination to abolish or reduce size of police service

53 (1) A police service board shall not terminate the employment of a member of a police service for the purpose of abolishing the police service or reducing its size without first obtaining the approval of the Inspector General.

Same, planned attrition

(2) A police service board shall not reduce the size of its police service by implementing a plan for attrition without first obtaining the approval of the Inspector General.

Inspector General's approval

(3) The Inspector General may approve the termination of a member of a police service under subsection (1) or a plan for attrition under subsection (2) if he or she is satisfied that,

- (a) appropriate arrangements have been made for the provision of adequate and effective policing in the area after the police service is reduced in size or abolished; and
- (b) in the case of termination, the member being terminated and the police service board have made an agreement dealing with severance pay or have referred the issue of severance pay to arbitration under subsection (4).

Arbitration

(4) If the issue of severance pay cannot be referred to arbitration under Part XIII, the board or the member being terminated may apply to the Commission Chair to appoint an arbitrator.

Inspector General

(5) The Inspector General may investigate a proposed termination described in subsection (1) or a proposed plan for attrition under subsection (2) to determine whether appropriate arrangements have been made for the provision of adequate and effective policing in the affected area if the size of the police service is reduced.

Municipal fines

54 (1) This section applies if a municipality is entitled to receive fines paid as a result of prosecutions instituted by police officers of the municipal police service.

Same

(2) If the municipality does not have its own police service, the police officers who are assigned to the municipality shall, for the purposes of determining entitlement to fine payments, be deemed to be police officers of the municipal police service.

Municipal by-law enforcement officers

55 (1) A municipality may appoint persons to enforce the by-laws of the municipality.

Peace officers

(2) Municipal by-law enforcement officers appointed under this section are peace officers for the purpose of enforcing municipal by-laws.

PART V ONTARIO PROVINCIAL POLICE

COMMISSIONER

Commissioner

56 (1) The Lieutenant Governor in Council shall appoint a Commissioner of the Ontario Provincial Police and may appoint one or more deputy Commissioners.

Composition of O.P.P.

(2) The Ontario Provincial Police consists of the members of the Ontario Provincial Police.

Appointments

(3) The Commissioner may, in accordance with any diversity plan, policy or directive that is applicable to the public service of Ontario, appoint members of the Ontario Provincial Police as police officers.

Commissions

(4) The Lieutenant Governor in Council may authorize the issue of a commission under the Great Seal to,

- (a) the Commissioner;
- (b) deputy Commissioners; and
- (c) police officers appointed under subsection (3) who attain a rank identified by the Commissioner.

Transition

(5) The Commissioner, and any deputy Commissioner, who held his or her appointment under the *Police Services Act* immediately before that Act was repealed continue to be appointed under this Act.

Same

(6) Any person who was a member of the Ontario Provincial Police under the *Police Services Act* immediately before its repeal continues to be a member of the Ontario Provincial Police under this Act.

Commissioner's duties

57 The Commissioner shall,

- (a) provide adequate and effective policing in the area for which he or she has policing responsibility as required by section 10;
- (b) perform duties under this or any other Act related to the employment of members of the Ontario Provincial Police in accordance with any diversity plan, policy or directive that is applicable to the public service of Ontario;
- (c) maintain a traffic patrol on the King's Highway, except the parts prescribed by the Minister;
- (d) maintain a traffic patrol on a highway or part of a highway that is designated as a connecting link under section 21 of the *Public Transportation and Highway Improvement Act*, except as prescribed by the Minister;
- (e) maintain investigative services to assist other police services in accordance with the Minister's policies; and
- (f) perform such other duties as are assigned to the Commissioner by or under this or any other Act, including any prescribed duties.

Annual report

58 (1) On or before June 30 in each year, the Commissioner shall file an annual report with the Minister that addresses at least the following matters:

1. The implementation of the Minister's strategic plan and the achievement of the performance objectives identified in the strategic plan.
2. The affairs of the Ontario Provincial Police.
3. Any other prescribed matters.

Publication and tabling

(2) The Minister shall publish the annual report on the Internet.

MINISTER

Minister's O.P.P. duties

59 The Minister shall,

- (a) monitor the Commissioner's performance;
- (b) conduct a review of the Commissioner's performance at least annually in accordance with the regulations, if any;
- (c) monitor the Commissioner's handling of discipline within the Ontario Provincial Police; and
- (d) ensure that any police facilities, including police lock-ups, used by the Ontario Provincial Police comply with the prescribed standards, if any.

Minister's policies

60 (1) Subject to subsection (2), the Minister shall establish policies respecting,

- (a) the provision of adequate and effective policing by the Commissioner in accordance with the needs of the population in the areas for which the Commissioner has policing responsibility;
- (b) disclosure by the Commissioner of personal information about individuals;
- (c) investigative services that the Commissioner must provide to other police services;
- (d) the handling of discipline within the Ontario Provincial Police;

- (e) subject to subsection (4) and to the regulations, the indemnification of members of the Ontario Provincial Police for legal costs; and
- (f) any other prescribed matters.

Restriction on Minister's policies

(2) Except in urgent circumstances, the Minister may not establish a policy under subsection (1) unless he or she has given a copy of the proposed policy to the Advisory Council and allowed the Council at least one month to consider it.

Other policies

(3) In addition to the policies required by subsection (1), the Minister may establish policies respecting any other matters related to the Ontario Provincial Police or the provision of policing by the Commissioner.

Indemnification policy

(4) The Minister is not required to establish a policy described in clause (1) (e) if indemnification for the legal costs of members of the Ontario Provincial Police is provided for by an agreement made under the *Ontario Provincial Police Collective Bargaining Act, 2006*.

No policies for certain matters

(5) The Minister shall not make policies with respect to specific investigations, the conduct of specific operations, the management or discipline of specific police officers or other prescribed matters.

Other limitations on policies

- (6) The Minister shall not make policies,
- (a) that would require a member of the Ontario Provincial Police to do something or refrain from doing something where this would be inconsistent with his or her duties under this Act or the regulations; or
 - (b) that would prohibit a member of the Ontario Provincial Police from attempting to collect information for the purpose of investigating an offence or assisting with the prosecution of an offence.

Publication

(7) The Minister shall publish the policies referred to in subsections (1) and (3) on the Internet.

Strategic plan

61 (1) The Minister shall, in accordance with the regulations, if any, prepare and adopt a strategic plan for the provision of policing by the Commissioner, which shall address at least the following matters:

1. How the Commissioner will ensure the provision of adequate and effective policing in accordance with the needs of the population of the areas for which he or she has policing responsibility.
2. The objectives, priorities and core functions of the Ontario Provincial Police.
3. Quantitative and qualitative performance objectives and indicators of outcomes relating to,
 - i. the provision of community-based crime prevention initiatives, community patrol and criminal investigation services,
 - ii. community satisfaction with the policing provided,
 - iii. emergency calls for service,
 - iv. violent crime and clearance rates for violent crime,
 - v. property crime and clearance rates for property crime,
 - vi. youth crime and clearance rates for youth crime,
 - vii. police assistance to victims of crime and re-victimization rates,
 - viii. interactions with persons described in paragraphs 4 and 5 of this subsection,
 - ix. road safety, and
 - x. any other prescribed matters.
4. Interactions with,
 - i. youths,
 - ii. members of racialized groups, and
 - iii. members of First Nation, Inuit and Métis communities.

5. Interactions with persons who appear to have a mental health condition.
6. Information technology.
7. Resource planning.
8. Police facilities.
9. Any other prescribed matters.

Same

(2) The Minister shall review and, if appropriate, revise the strategic plan in accordance with the regulations, if any, at least once every four years.

Publication

(3) The Minister shall publish the strategic plan on the Internet.

Minister directions

62 (1) The Minister may give directions to the Commissioner.

No direction to other members of the O.P.P.

(2) For greater certainty, the Minister shall not direct members of the Ontario Provincial Police other than the Commissioner.

No directions for certain matters

(3) The Minister shall not direct the Commissioner with respect to specific investigations, the conduct of specific operations, the discipline of specific police officers, the day-to-day administration of the Ontario Provincial Police or other prescribed matters.

Other information serves purpose

(4) The Minister shall not direct the Commissioner to provide personal information under subsection (1) if other information will serve the purpose for which the information is to be used.

Personal information limited to what is reasonably necessary

(5) The Minister shall not direct the Commissioner to provide more personal information under subsection (1) than is reasonably necessary to meet the purpose for which the information is to be used.

Other limitations on directions

- (6) The Minister shall not direct the Commissioner to do anything that would,
- (a) contravene this Act or the regulations, or any other Act or regulation;
 - (b) require a member of the Ontario Provincial Police to do something or refrain from doing something where this would be inconsistent with his or her duties under this Act or the regulations; or
 - (c) prohibit a member of the Ontario Provincial Police from attempting to collect information for the purpose of investigating an offence or assisting with the prosecution of an offence.

Commissioner may decline

(7) The Commissioner may decline to provide information under this section if authorized to do so by the regulations.

Publication

(8) The Minister shall publish any directions given to the Commissioner under subsection (1) on the Internet.

ADMINISTRATION AND FINANCES

Liability

63 (1) The Crown in right of Ontario is liable for the acts or omissions of members of the Ontario Provincial Police committed in the course of their employment.

Indemnification of member of O.P.P.

(2) The Minister of Finance may indemnify, out of the Consolidated Revenue Fund, a member of the Ontario Provincial Police for reasonable legal costs incurred,

- (a) in the defence of a civil proceeding, if the member is not found to be liable;
- (b) in the defence of a criminal prosecution, if the member is found not guilty; or
- (c) in respect of any other proceeding in which the member's manner of execution of the duties of his or her employment was an issue, if the member is found to have acted in good faith.

Agreement

(3) The Ontario Provincial Police Association and the Crown in right of Ontario may provide for indemnification for the legal costs of members of the Ontario Provincial Police in an agreement made under the *Ontario Provincial Police Collective Bargaining Act, 2006*, except the legal costs of a member who is found guilty of a criminal offence and, if it provides for such an indemnification, subsection (2) does not apply and the Minister of Finance shall indemnify members in accordance with the agreement.

Exception, officer appointed under the *Interprovincial Policing Act, 2009*

(4) This section does not apply in respect of a police officer appointed under the *Interprovincial Policing Act, 2009*.

Commissioner policing

64 (1) A municipality in the area for which the Commissioner has policing responsibility shall pay the Minister of Finance for the policing the Commissioner provides, in the amount and the manner provided by the regulations.

Collection

(2) Subsections 65 (2), (4) and (5) apply with necessary modifications to the payments made under subsection (1).

Minister may charge for Commissioner's services

65 (1) The Minister may charge a municipality, a police service board, or any person or entity for any service the Commissioner provides to them under this Act or the regulations other than the policing referred to in subsection 64 (1).

Payment into Consolidated Revenue Fund

(2) The amounts received for any service the Commissioner provides shall be paid into the Consolidated Revenue Fund.

No agreement as to cost

(3) If no agreement has been entered into with respect to the cost of the services provided by the Commissioner, the Commissioner may, with the approval of the Minister, certify the cost of the services, and the cost shall be paid by the municipality, police service board, or person or entity that received them.

Collection of amounts owed

(4) The amount owed for any service the Commissioner provides, if not collected by other means, may be recovered by a court action as a debt due to Her Majesty and, if the amount is owed by a municipality, may be deducted from any grant payable to the municipality out of provincial funds.

Dispute

(5) A debtor may dispute the amount claimed in a court action commenced under subsection (4), and the court shall determine the issue and make such order as it considers appropriate in the circumstances.

Aid to survivors of deceased member of O.P.P.

66 The Lieutenant Governor in Council may, out of money appropriated for that purpose by the Legislature, grant financial or other assistance for the benefit of the surviving spouses and children of members of the Ontario Provincial Police who die from injuries received or illnesses contracted in the discharge of their duties.

O.P.P. DETACHMENT BOARDS

O.P.P. detachment board

67 (1) There shall be an O.P.P. detachment board, or more than one O.P.P. detachment board in accordance with the regulations, for each detachment of the Ontario Provincial Police that provides policing in a municipality or in a First Nation reserve.

Composition

(2) The composition of the O.P.P. detachment board shall be as provided in the regulations.

Term of office and remuneration

(3) The term of office and remuneration and expenses of the members of the O.P.P. detachment board shall be as provided in the regulations.

Code of conduct

(4) Every member of an O.P.P. detachment board shall comply with the prescribed code of conduct.

Liability

(5) An O.P.P. detachment board is not liable for the acts or omissions of members of the Ontario Provincial Police committed in the course of their employment.

Application of other provisions

(6) The following provisions apply to O.P.P. detachment boards, with necessary modifications, as if they were police service boards:

1. Section 33 (Appointment).
2. Subsections 35 (1), (2) and (3) (Oath, training and conduct).
3. Section 36 (Election of chair).
4. Section 42 (Delegation).
5. Section 43 (Meetings).
6. Section 44 (When meetings may be closed to public).
7. Section 45 (Evidence of by-laws).
8. Section 46 (Rules and procedures).
9. Section 48 (Protection from personal liability).
10. Section 49 (Police service board may contract, sue and be sued).

Role

68 (1) The O.P.P. detachment board shall,

- (a) consult with the Commissioner regarding the selection of a detachment commander and otherwise participate, in accordance with the regulations, in the selection of the detachment commander;
- (b) determine objectives and priorities for the detachment, not inconsistent with the strategic plan prepared by the Minister, after consultation with the detachment commander or his or her designate;
- (c) advise the detachment commander with respect to policing provided by the detachment;
- (d) monitor the performance of the detachment commander;
- (e) review the reports from the detachment commander regarding policing provided by the detachment; and
- (f) on or before June 30 in each year, provide an annual report to the municipalities and band councils regarding the policing provided by the detachment in their municipalities or First Nation reserves.

Other duties of detachment commander

(2) The detachment commander shall provide the O.P.P. detachment board with reports regarding policing provided by the detachment at the board's request.

Delegation

(3) The detachment commander may delegate any of his or her powers and duties with respect to the O.P.P. detachment board to another person in writing, subject to any limitations, conditions or requirements set out in the delegation.

Consideration of community safety and well-being plan

(4) In exercising its functions, the O.P.P. detachment board shall consider any community safety and well-being plan adopted by a municipality or First Nation that receives policing from the detachment.

Prescribed standards

(5) The O.P.P. detachment board shall comply with the prescribed standards, if any, with respect to the exercise of its powers and the performance of its duties under this Act.

Local policies

69 (1) An O.P.P. detachment board may establish local policies, after consultation with the detachment commander or his or her designate, with respect to policing in the area receiving policing from the detachment.

Local policy requirements

(2) A local policy established under subsection (1) must meet the following requirements:

1. The local policy must not be inconsistent with,
 - i. the strategic plan prepared by the Minister,
 - ii. any policies established by the Minister under section 60,
 - iii. any procedures established by the Commissioner, or

- iv. the local action plan prepared by the detachment commander.
- 2. The local policy must not relate to specific investigations, the conduct of specific operations or other prescribed matters.
- 3. The local policy must not require a member of the Ontario Provincial Police to do something or refrain from doing something where this would be inconsistent with his or her duties under this Act or the regulations.
- 4. The local policy must not prohibit a member of the Ontario Provincial Police from attempting to collect information for the purpose of investigating an offence or assisting with the prosecution of an offence.
- 5. The local policy must not require a member of the Ontario Provincial Police to provide any policing that is not required as a component of adequate and effective policing.
- 6. The local policy must comply with any prescribed requirements.

Detachment commander to comply with local policies

(3) Every detachment commander shall ensure that his or her detachment provides policing in accordance with the local policies of his or her O.P.P. detachment board.

Dispute

(4) If a detachment commander believes that a local policy of his or her O.P.P. detachment board does not comply with subsection (2),

- (a) he or she shall inform the O.P.P. detachment board, in writing, of the reasons why he or she believes that the local policy does not comply with subsection (2); and
- (b) despite subsection (3), he or she is not required to ensure that policing is provided in accordance with the policy unless directed to do so by the Commissioner under subsection (5).

Application for review

(5) If the O.P.P. detachment board is not satisfied with the detachment commander's reasons for not complying with the local policy, it may apply to the Commissioner to review the decision and provide direction to the detachment commander, which may include requiring compliance with the local policy.

Commissioner to consider submissions

(6) The Commissioner shall consider any submissions from the O.P.P. detachment board and shall provide it with written reasons for his or her decision to provide directions or not to provide directions to the detachment commander.

Publication

(7) The O.P.P. detachment board shall publish any local policies established under subsection (1) on the Internet in accordance with the regulations made by the Minister, if any.

Local action plan

70 (1) A detachment commander shall, in accordance with the regulations, if any, prepare and adopt a local action plan for the provision of policing provided by the detachment, which shall address at least the following matters:

- 1. How adequate and effective policing will be provided in the area served by the detachment, in accordance with the needs of the population in the area and having regard for the diversity of the population in the area.
- 2. The objectives and priorities for the detachment determined by the O.P.P. detachment board and such other objectives and priorities determined by the detachment commander.
- 3. Quantitative and qualitative performance objectives and indicators of outcomes relating to,
 - i. the provision of community-based crime prevention initiatives, community patrol and criminal investigation services,
 - ii. community satisfaction with the policing provided,
 - iii. emergency calls for service,
 - iv. violent crime and clearance rates for violent crime,
 - v. property crime and clearance rates for property crime,
 - vi. youth crime and clearance rates for youth crime,
 - vii. police assistance to victims of crime and re-victimization rates,
 - viii. interactions with persons described in paragraphs 4 and 5 of this subsection,
 - ix. road safety, and

- x. any other prescribed matters.
- 4. Interactions with,
 - i. youths,
 - ii. members of racialized groups, and
 - iii. members of First Nation, Inuit and Métis communities.
- 5. Interactions with persons who appear to have a mental health condition.

Same

(2) The local action plan must also provide an overview of the consultations that were conducted under subsection (3) and state whether and, if applicable, how the needs and concerns regarding policing identified during the consultations have been addressed by the plan.

Consultations

- (3) In preparing or revising the local action plan, the detachment commander shall consult with,
- (a) his or her O.P.P. detachment board;
 - (b) the municipal council of any municipalities that receive policing from the detachment;
 - (c) the band councils of any First Nations that receive policing from the detachment;
 - (d) groups representing diverse communities in the area that receives policing from the detachment;
 - (e) school boards, community organizations, businesses and members of the public in the area that receives policing from the detachment; and
 - (f) any other prescribed persons, organizations or groups.

Considerations

- (4) In preparing or revising the local action plan, the detachment commander shall consider, at a minimum,
- (a) the results of the consultations conducted under subsection (3);
 - (b) any community safety and well-being plans adopted by the municipalities or First Nations that receive policing from the detachment; and
 - (c) the needs of members of diverse communities in the area that receives policing from the detachment, including the needs of members of racialized groups and of First Nation, Inuit and Métis communities.

Submission of draft

(5) The detachment commander shall submit a draft of the new or amended local action plan to his or her O.P.P. detachment board before it is finalized and allow the board to make comments on the draft within 60 days after the submission.

Consideration of comments

(6) The detachment commander shall consider the O.P.P. detachment board's comments on the draft, if any, and revise the plan if he or she determines it to be appropriate.

Publication

(7) The local action plan shall be published on the Internet in accordance with the regulations made by the Minister, if any.

Review and revision

(8) The detachment commander shall review and, if appropriate, revise the local action plan in accordance with the regulations, if any, at least once every four years and whenever there is an amendment to the strategic plan prepared by the Minister.

Estimates, O.P.P. detachment boards

71 (1) An O.P.P. detachment board shall prepare estimates, in accordance with the regulations, of the total amount that will be required to pay the expenses of the board's operation, other than the remuneration of board members.

Submit to municipalities

(2) The O.P.P. detachment board shall submit the estimates to every municipality that receives policing from the detachment along with a statement of the municipality's share of the costs, which are to be determined in accordance with the regulations.

Budget

(3) Subject to subsection (4), the municipalities shall contribute their share of the costs to the O.P.P. detachment board's budget in accordance with the estimates.

Arbitration in case of dispute

(4) If a municipality is not satisfied that the total amount set out in the estimates is required to pay the expenses of the O.P.P. detachment board's operation, it may give the board written notice referring the matter to arbitration.

Joining arbitration

(5) The other municipalities that receive policing from the detachment may join the arbitration as a party.

No separate arbitrations

(6) If the other municipalities do not join the arbitration, they may not separately commence a different arbitration with respect to the estimates under this section.

Arbitrator

(7) The O.P.P. detachment board and the municipality or municipalities may jointly appoint an arbitrator within 60 days after the notice is provided to the municipality or municipalities.

Same

(8) If the O.P.P. detachment board and the municipality or municipalities do not jointly appoint an arbitrator, the board or the municipality or municipalities may apply to the Commission Chair to appoint an arbitrator.

ONTARIO PROVINCIAL POLICE GOVERNANCE ADVISORY COUNCIL

Ontario Provincial Police Governance Advisory Council

72 (1) A council known as the Ontario Provincial Police Governance Advisory Council in English and Conseil consultatif de gouvernance de la Police provinciale de l'Ontario in French is established.

Members

(2) The composition of the Advisory Council shall be as provided in the regulations, and the members shall be appointed by the Lieutenant Governor in Council.

Chair, vice-chairs

(3) The Lieutenant Governor in Council may designate one of the members of the Advisory Council to be the chair and one or more members of the Advisory Council to be vice-chairs.

Vice-chairs

(4) A vice-chair shall act as and have all the powers and authority of the chair if the chair is absent or unable to act or if the chair's position is vacant.

Employees

(5) Such employees as are considered necessary for the proper conduct of the affairs of the Advisory Council may be appointed under Part III of the *Public Service of Ontario Act, 2006*.

Code of conduct

(6) Every member of the Advisory Council shall comply with the prescribed code of conduct.

Training

(7) A member of the Advisory Council shall not exercise any of their powers or perform any of their duties under this Act unless they have successfully completed,

- (a) the training approved by the Minister with respect to human rights and systemic racism;
- (b) the training approved by the Minister that promotes recognition of and respect for,
 - (i) the diverse, multiracial and multicultural character of Ontario society, and
 - (ii) the rights and cultures of First Nation, Inuit and Métis Peoples; and
- (c) any other training prescribed by the Minister.

Functions of Advisory Council

73 (1) The Advisory Council shall,

- (a) advise the Minister regarding the use of his or her powers with respect to the Ontario Provincial Police under sections 59 to 62; and
- (b) perform any other prescribed duties.

May request report from Minister

(2) The Advisory Council may request a report from the Minister regarding the Ontario Provincial Police or the use of the Minister's powers under section 59, 60, 61 or 62, and the Minister shall prepare and provide the requested report to the Advisory Council within a reasonable period of time.

Prescribed standards

(3) The Advisory Council shall comply with the prescribed standards, if any, with respect to the exercise of its powers and the performance of its duties under this Act.

Meetings

74 (1) The Advisory Council shall hold at least four meetings each year.

Quorum

(2) A majority of the members of the Advisory Council constitutes a quorum.

Proceedings open to the public

(3) Subject to section 75, meetings conducted by the Advisory Council shall be open to the public.

Record of meeting

(4) The Advisory Council shall record without note or comment all resolutions, decisions and other proceedings at the meeting, whether it is open to the public or not.

Notice

(5) The Advisory Council shall publish notice of a meeting that is open to the public on the Internet in accordance with the regulations made by the Minister, if any.

Timing of notice

(6) The notice shall be published at least seven days before the meeting, except in extraordinary circumstances.

Contents of notice

(7) The notice must include,

- (a) the proposed agenda for the meeting; and
- (b) either,
 - (i) the record of the most recent meeting of the Advisory Council that was open to the public, other than the record of any part of the meeting that was closed to the public, or
 - (ii) instructions on how a member of the public may access the record referred to in subclause (i).

When meetings may be closed to public**Consideration**

75 (1) Before holding a meeting or part of a meeting, the Advisory Council shall,

- (a) consider whether to close the meeting or part of the meeting to the public, having regard to the matters listed in subsections (2) and (3); and
- (b) if the Council decides to close the meeting or part of the meeting, state by resolution,
 - (i) the fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting, or
 - (ii) in the case of a meeting under subsection (6), the fact of the holding of the closed meeting, the general nature of its subject-matter and that it is to be closed under that subsection.

Subject matter

(2) The meeting or part of the meeting may be closed to the public if the subject matter being considered is,

- (a) the security of facilities used by the Ontario Provincial Police;
- (b) personal matters about an identifiable individual, including members of the Ontario Provincial Police;
- (c) a proposed or pending acquisition or disposition of land related to the Ontario Provincial Police;
- (d) labour relations or employee negotiations;
- (e) litigation or potential litigation affecting the Advisory Council or related to the Ontario Provincial Police, including matters before administrative tribunals;

- (f) advice that would be inadmissible in a court by reason of any privilege under the law of evidence, including communications necessary for that purpose;
- (g) information explicitly supplied in confidence to the Council by Canada, a province or territory or a Crown agency of any of them, a municipality or a First Nation;
- (h) a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the Council, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (i) a trade secret or scientific, technical, commercial or financial information that belongs to the Council and has monetary value or potential monetary value;
- (j) a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the Council;
- (k) information that section 14 of the *Freedom of Information and Protection of Privacy Act* would authorize a refusal to disclose if it were contained in a record; or
- (l) an ongoing investigation respecting the Advisory Council.

When meetings must be closed to the public

(3) A meeting or part of a meeting of the Advisory Council shall be closed to the public if the subject matter being considered is a request under the *Freedom of Information and Protection of Privacy Act*.

Duty of confidentiality

(4) The members of the Advisory Council shall keep any matter considered in a meeting closed under subsection (2) or (3) confidential, including by keeping confidential any information obtained for the purpose of considering the confidential matter, except,

- (a) for the purpose of complying with an inspector exercising their powers or duties under this Act;
- (b) as may otherwise be required in connection with the administration of this Act, the *Special Investigations Unit Act, 2019* or the regulations made under either of them;
- (c) as may be required for a law enforcement purpose; or
- (d) where disclosure is otherwise required by law.

Disclosure by resolution

(5) Despite subsection (4), the Advisory Council may, by resolution, disclose or authorize a member of the Advisory Council to disclose any matter considered in a meeting closed under subsection (2) or (3), which may include disclosing information obtained for the purpose of considering the confidential matter.

Educational or training sessions

(6) A meeting of the Advisory Council may be closed to the public if the following conditions are both satisfied:

1. The meeting is held for the purpose of educating or training the members of the Advisory Council.
2. At the meeting, no member of the Advisory Council considers or otherwise deals with any matter in a way that materially advances the business or decision-making of the Advisory Council.

AGREEMENTS WITH FIRST NATIONS

Agreements with First Nations to provide O.P.P. policing

76 (1) A band council of a First Nation may enter into a written agreement with the Minister for the provision of policing and other specified services by the Commissioner in the First Nation reserve or other specified area.

Required contents

(2) An agreement under subsection (1) shall address the policing and other services to be provided, which may include the enforcement of First Nation by-laws, the area in which they will be provided and the level at which they will be provided.

Optional contents

(3) The agreement may address any other matters, including,

- (a) the manner in which the policing and other services will be provided, including requiring it to be provided by police officers or other members of the Ontario Provincial Police who work primarily or exclusively in the First Nation reserve or other specified area;
- (b) the steps that will be taken to ensure that the policing and other services reflect the cultural traditions of the First Nation;

- (c) the qualifications of the members of the Ontario Provincial Police who provide the policing and other services;
- (d) the uniform of the members of the Ontario Provincial Police who provide the policing and other services;
- (e) the mediation, arbitration or resolution of disputes that may arise in relation to the agreement; and
- (f) funding for a First Nation O.P.P. board.

Effect on area of policing responsibility

- (4) When the agreement comes into effect,
 - (a) the First Nation reserve shall become part of the Commissioner's area of policing responsibility, if it was not already part of that area; and
 - (b) any police service board that previously had policing responsibility for the area no longer has that responsibility.

Duties of Commissioner

- (5) The Commissioner shall ensure that the agreement is carried out.

First Nation O.P.P. boards

77 (1) A band council of a First Nation may request that the Minister constitute a First Nation O.P.P. board to oversee the policing provided by the Commissioner pursuant to an agreement that has already been made or that the band council intends to make under section 76.

Joint request

- (2) Multiple band councils may jointly make a request to constitute a board under subsection (1).

Application to joint boards

- (3) Subject to the regulations, the provisions of this Act that apply to First Nation O.P.P. boards apply, with necessary modifications, to joint First Nation O.P.P. boards.

Contents of request

- (4) A request made under subsection (1) must specify,
 - (a) the area that is, or that is intended to be, within the Commissioner's area of policing responsibility for which the proposed board shall have the powers, duties and functions set out in section 78;
 - (b) the composition of the proposed board;
 - (c) the method of appointing members of the proposed board;
 - (d) the name of the proposed board; and
 - (e) the proposed term of office of members of the proposed board.

Minister's request

- (5) The Minister may request any additional information from the band council to assist in the Minister's consideration of the request.

Considerations

- (6) The Minister shall consider the request made under subsection (1) and determine whether or not to constitute the board, having regard to the possibility of funding or other assistance being provided to the board and any other prescribed matters.

First Nation O.P.P. board regulations

- (7) The Minister may make regulations,
 - (a) constituting a First Nation O.P.P. board for the requesting band council or councils;
 - (b) governing the composition of the First Nation O.P.P. board;
 - (c) specifying the name of the First Nation O.P.P. board;
 - (d) governing appointments to the First Nation O.P.P. board; and
 - (e) governing the term of office of members of the First Nation O.P.P. board.

Consistency with request

- (8) A regulation made under subsection (7) must be consistent with the request made under subsection (1).

Same, consideration

(9) In determining whether to amend or revoke a regulation made under subsection (7), the Minister shall consider the importance of First Nations determining the means by which culturally responsive policing is provided on their First Nation reserves.

Limitation on amendment or revocation

(10) The Minister shall not amend or revoke a regulation made under subsection (7) unless the Minister is satisfied that appropriate arrangements that satisfy any prescribed requirements have been made for the First Nation that requested the constitution of the First Nation O.P.P. board to receive adequate and effective policing after the amendment or revocation takes effect and at least one of the following conditions is met:

1. The amendment or revocation is consistent with a request from the band council of the First Nation that requested the constitution of the First Nation O.P.P. board.
2. There has been a material change in the circumstances on which the regulation is based.
3. The First Nation O.P.P. board was dissolved under section 126.
4. The amendment is editorial or technical in nature.

Limitation on revocation

(11) In addition to the requirements set out in subsection (10), the Minister shall not revoke a regulation made under subsection (7) unless he or she is satisfied that appropriate arrangements have been made for severance pay for the employees of the First Nation O.P.P. board.

Increase in area

(12) In addition to the requirements set out in subsection (10), the Minister shall not amend a regulation made under subsection (7) to increase the area for which the First Nation O.P.P. board has the powers, duties and functions set out in section 78 unless the amendment is consistent with a request from the band councils of the First Nations that would be affected by the increase.

Same, notice and comments

(13) If the Minister intends to amend or revoke a regulation made under subsection (7) in a manner that is not consistent with a request described in paragraph 1 of subsection (10), the Minister shall provide notice containing a description of the proposed regulation to the band council of the First Nation that requested the constitution of the First Nation O.P.P. board and provide an opportunity for it to comment on it in writing.

Same, written reasons

(14) If the Minister decides to amend or revoke the regulation after considering the comments provided under subsection (13), the Minister shall provide written reasons for his or her decision to the entities that received the notice.

Agreements with First Nation O.P.P. boards

(15) The Minister may enter into a written agreement with a First Nation O.P.P. board to provide it with funding or other assistance, subject to such terms or conditions as may be specified in the agreement.

Duties and functions of First Nation O.P.P. board

78 (1) The First Nation O.P.P. board shall have all of the powers, duties and functions of an O.P.P. detachment board set out in sections 68 and 69 with respect to a detachment that provides policing under an agreement made under section 76, with necessary modifications.

Other applicable provisions

(2) The provisions listed in subsection 67 (6) apply to First Nation O.P.P. boards, with necessary modifications, as if they were police service boards.

Additional duties

(3) In addition to the duties and functions described in subsection (1), the First Nation O.P.P. board shall monitor the provision of policing and other services by the detachment to ensure that it complies with the agreement.

Local action plan

(4) The detachment commander shall prepare a separate local action plan for the provision of policing to the First Nation or First Nations served by the First Nation O.P.P. board, and section 70 applies to the plan with necessary modifications.

Prescribed standards

(5) A First Nation O.P.P. board shall comply with the prescribed standards, if any, with respect to the exercise of its powers and the performance of its duties under this Act.

Code of conduct

(6) Every member of a First Nation O.P.P. board shall comply with the prescribed code of conduct.

Liability

(7) A First Nation O.P.P. board is not liable for the acts or omissions of members of the Ontario Provincial Police committed in the course of their employment.

**PART VI
POLICE OFFICERS AND OTHER POLICING PERSONNEL**

CHIEF OF POLICE

Duties of chief of police

79 (1) A chief of police shall manage the members of the police service to ensure that they carry out their duties in accordance with this Act and the regulations and in a manner that reflects the needs of the community.

Same, Commissioner

- (2) The Commissioner shall,
- (a) administer the Ontario Provincial Police and oversee its operation in accordance with the Minister's policies and strategic plan;
 - (b) comply with any investigations conducted by the Complaints Director or the SIU Director and any inspections conducted by the Inspector General; and
 - (c) comply with the Minister's lawful directions.

Same, other chief of police

- (3) A chief of police of a police service maintained by a police service board shall,
- (a) administer the police service and oversee its operation in accordance with the board's policies and strategic plan;
 - (b) comply with any investigations conducted by the Complaints Director or the SIU Director and any inspections conducted by the Inspector General; and
 - (c) comply with the lawful directions of the board.

Written procedures

(4) A chief of police shall establish written procedures regarding the administration of his or her police service and the provision of policing by the police service.

Delegation

(5) A chief of police may delegate in writing any of his or her powers and duties under this Act or the regulations to a member of the chief of police's police service, subject to any limitations, conditions or requirements set out in the delegation.

Deputy Commissioner or deputy chief of police

(6) A deputy Commissioner or deputy chief of police shall act in the place of the Commissioner or chief of police if he or she is absent or unable to act and, when so acting, may exercise all the powers and shall perform all the duties of the Commissioner or chief of police.

Power to disclose personal information

80 (1) Despite any other Act, a chief of police, or a person designated by him or her for the purpose of this subsection, may disclose personal information about an individual in accordance with the regulations.

Purpose of disclosure

- (2) Any disclosure made under subsection (1) shall be for one or more of the following purposes:
- 1. Protection of the public.
 - 2. Protection of victims of crime.
 - 3. Keeping victims of crime informed of the law enforcement, judicial or correctional processes relevant to the crime that affected them.
 - 4. Law enforcement.
 - 5. Correctional purposes.
 - 6. Administration of justice, including the conduct of civil proceedings.

7. Enforcement of and compliance with any federal or provincial Act, regulation or government program.
8. Keeping the public informed of the law enforcement, judicial or correctional processes respecting any individual.

Same

(3) Any disclosure made under subsection (1) shall be deemed to be in compliance with clauses 42 (1) (e) of the *Freedom of Information and Protection of Privacy Act* and 32 (e) of the *Municipal Freedom of Information and Protection of Privacy Act*.

Same

(4) If personal information is disclosed under subsection (1) to an institution within the meaning of the *Freedom of Information and Protection of Privacy Act*, the institution shall collect such information and subsections 39 (2) of the *Freedom of Information and Protection of Privacy Act* and 29 (2) of the *Municipal Freedom of Information and Protection of Privacy Act* do not apply to that collection of personal information.

SIU investigation of member of police service

81 (1) If the SIU Director causes an incident to be investigated under section 15 of the *Special Investigations Unit Act, 2019* involving a member of a police service, other than a deputy chief of police, the chief of police of the police service shall investigate,

- (a) the member's conduct in relation to the incident;
- (b) the policing provided by the member in relation to the incident; and
- (c) the procedures established by the chief of police as they related to the incident.

Time for investigation

(2) The investigation shall occur promptly but shall not be conducted during the time period described in subsection 208 (3).

Outside investigation

(3) The chief of police may request that a person who is not a member of a police service investigate a member of a police service for the purposes set out in subsection (1) and report back on their findings if the chief of police determines that it is necessary to have such a person conduct the investigation, including if it is necessary to obtain special expertise or to ensure public confidence in the investigation.

Report

(4) A chief of police shall report on his or her investigation under subsection (1) in accordance with the regulations made by the Minister.

Chief of police or deputy chief of police

(5) If the incident being investigated involves a chief of police or deputy chief of police of a police service maintained by a police service board, the police service board shall investigate the matter as described in subsection (1), and subsections (1) to (4) apply to the investigation, with necessary modifications.

Commissioner or deputy Commissioner

(6) If the incident being investigated involves the Commissioner or a deputy Commissioner, the Minister shall investigate the matter as described in subsection (1), and subsections (1) to (4) apply to the investigation, with necessary modifications.

POLICE OFFICERS

Duties of police officer

82 (1) The duties of a police officer include,

- (a) preserving the peace;
- (b) preventing crimes and other offences and providing assistance and encouragement to other persons in their prevention;
- (c) assisting victims of crime;
- (d) apprehending criminals and other offenders and others who may lawfully be taken into custody;
- (e) laying charges and participating in prosecutions;
- (f) executing warrants that are to be executed by police officers and performing related duties;
- (g) performing the lawful duties that the chief of police assigns;
- (h) completing training required by this Act or the regulations;
- (i) complying with the prescribed code of conduct; and

- (j) performing such other duties as are assigned to him or her by or under this or any other Act, including any prescribed duties.

Power to act throughout Ontario

- (2) A police officer has authority to act as such throughout Ontario.

Powers and duties of common law constable

- (3) A police officer has the powers and duties ascribed to a constable at common law.

Appointment of police officer

- 83** (1) No person shall be appointed as a police officer unless he or she,

- (a) is a Canadian citizen or a permanent resident of Canada;
- (b) is at least 18 years of age;
- (c) is physically and mentally able to perform the duties of the position, having regard to his or her own safety and the safety of members of the public;
- (d) is of good character;
- (e) has successfully completed,
 - (i) the training prescribed by the Minister, including techniques to de-escalate conflict situations and any other matters prescribed by the Minister, unless the person has been exempted from some or all of this training in accordance with the regulations made by the Minister,
 - (ii) the training approved by the Minister with respect to human rights and systemic racism, and
 - (iii) the training approved by the Minister that promotes recognition of and respect for,
 - (A) the diverse, multiracial and multicultural character of Ontario society, and
 - (B) the rights and cultures of First Nation, Inuit and Métis Peoples;
- (f) meets one of the following conditions:
 - (i) he or she has,
 - (A) a university degree, or
 - (B) a degree from a college of applied arts and technology authorized to grant the degree,
 - (ii) he or she has a diploma or advanced diploma granted by a college of applied arts and technology following successful completion of a program that is the equivalent in class hours of a full-time program of at least four academic semesters,
 - (iii) he or she has been granted a certificate or other document by a post-secondary institution evidencing successful completion of a program that the regulations prescribe as being equivalent to a degree or diploma described in subclause (i) or (ii),
 - (iv) if additional criteria have been prescribed, he or she has a secondary school diploma and meets the additional criteria.

Previous termination for cause

- (2) An appointment under subsection (1) shall not be made if the person's employment as a police officer in a Canadian jurisdiction was previously terminated for cause or if the person resigned in lieu of being terminated for cause.

Information or material to be provided

- (3) A candidate for appointment as a police officer shall provide any relevant information or material that is requested in connection with his or her application.

Certificate of appointment

- (4) The police service board or the Commissioner shall issue a certificate of appointment to a person at the time of his or her appointment as a police officer.

Automatic termination

- (5) A police officer's appointment is terminated, without notice and without an opportunity to respond, if he or she ceases to be a member of a police service.

Exception

(6) This section does not apply to a police officer appointed under the *Interprovincial Policing Act, 2009* or to a candidate for appointment under that Act.

Transition

(7) An appointment as a police officer under the *Police Services Act* that a person held immediately before that Act was repealed continues under this Act.

Same, duty of chief of police

(8) The chief of police of a police officer described in subsection (7) shall ensure that the officer successfully completes the training described in subclauses (1) (e) (ii) and (iii) within three years after the day this subsection comes into force.

Probationary period, police service board officer

84 (1) The probationary period of a police officer employed by a police service board begins on the day he or she is appointed and ends 12 months after the day of appointment.

Extension with consent

(2) A chief of police may extend a police officer's probationary period by up to six months if the police officer consents to the extension.

Leave of absence

(3) Any time taken by the police officer as a leave of absence does not count towards the fulfilment of the probationary period.

Only one probationary period

(4) Despite subsection (1), a police officer shall not be subject to a probationary period if he or she has already successfully completed a probationary period as a police officer with a police service, the Royal Canadian Mounted Police or a different prescribed policing organization.

Oaths of office and secrecy

85 (1) A person who is appointed to be a police officer shall, at the time of his or her appointment, take oaths or affirmations of office and secrecy in the form prescribed by the Minister.

Exception

(2) This section does not apply to a police officer appointed under the *Interprovincial Policing Act, 2009*.

Political activity

86 No police officer who is a member of a police service maintained by a police service board shall engage in political activity, except as permitted by the regulations.

MEMBERS OF POLICE SERVICES**Qualifications to hold position**

87 (1) Subject to subsection (2), a person is not eligible to hold a position as a member of a police service, whether in an acting or permanent capacity, unless he or she meets the prescribed qualifications for the position, if any.

Effect of new qualifications

(2) Unless the regulations provide otherwise, any new qualifications prescribed under subsection (1) for a position do not apply to a person who held that position immediately before the new qualifications came into effect.

Accommodation of disability needs

88 (1) If a member of a police service who is an employee of a police service board, or a member of the Ontario Provincial Police, becomes mentally or physically disabled and as a result is incapable of performing the essential duties of his or her position, the board or the Commissioner, as applicable, shall accommodate his or her needs in accordance with the *Human Rights Code*.

Incapacity after accommodation

(2) The police service board or the Commissioner may terminate the member's employment, or retire him or her if entitled to retire with an unreduced pension, if, after holding a hearing in accordance with the regulations, if any, at which the evidence of two legally qualified medical practitioners is received, the board or the Commissioner determines,

- (a) on the basis of the information available, that the member is mentally or physically disabled and as a result is incapable of performing the essential duties of the member's position; and

- (b) that the member's needs cannot be accommodated in accordance with the *Human Rights Code* without undue hardship on the board or on the Crown in right of Ontario, as applicable.

Written reasons

- (3) If the board or the Commissioner decides to terminate a member's employment or retire him or her under subsection (2), the board or the Commissioner shall promptly provide written reasons for this decision to the member.

Restrictions on secondary activities

- 89** (1) A member of a police service maintained by a police service board shall not engage in any activity,
- (a) that interferes with or influences adversely the performance of his or her duties as a member of a police service, or is likely to do so;
 - (b) that places him or her in a position of conflict of interest, or is likely to do so;
 - (c) that would otherwise constitute full-time employment for another person; or
 - (d) in which he or she has an advantage derived from being a member of a police service.

Exception, interprovincial officers and auxiliary members

- (2) Clause (1) (c) does not apply to,
- (a) a police officer appointed under the *Interprovincial Policing Act, 2009*; or
 - (b) an auxiliary member of a police service.

Disclosure to chief of police

- (3) A member of a police service maintained by a police service board who proposes to undertake an activity that may contravene subsection (1) or who becomes aware that an activity that he or she has already undertaken may do so shall disclose full particulars of the situation to the chief of police or, in the case of a chief of police, to the board.

Decision of chief of police or police service board

- (4) The chief of police or the police service board, as the case may be, shall decide whether the member is permitted to engage in the activity, subject to any conditions or restrictions that may be set out in the decision.

Member to comply

- (5) The member shall comply with the decision and with any conditions or restrictions set out in it.

Report to police service board

- (6) The chief of police shall submit a written report to the police service board respecting any decision he or she makes under subsection (4), with reasons.

Police cadets

- 90** (1) If authorized by the policies of the police service board, a chief of police may appoint employees of the board who are under the direction of the chief of police as police cadets to undergo training.

Same

- (2) If authorized by the policies of the Minister, the Commissioner may appoint persons employed under Part III of the *Public Service of Ontario Act, 2006* who are under the direction of the Commissioner as police cadets to undergo training.

Not a peace officer

- (3) For greater certainty, a police cadet is not a peace officer by virtue of his or her position.

Auxiliary members of police service

- 91** (1) Subject to the regulations, a police service board may appoint auxiliary members of the police service.

Auxiliary members of O.P.P.

- (2) Subject to the regulations, the Commissioner may appoint auxiliary members of the Ontario Provincial Police.

Suspension or termination of appointment

- (3) A police service board and the Commissioner may suspend or terminate the appointment of an auxiliary member.

Notice and opportunity to respond

- (4) Before the auxiliary member's appointment is terminated under subsection (3), the member shall be given written notice with respect to the reasons for the termination and an opportunity to respond orally or in writing, as the police service board or the Commissioner, as the case may be, may determine.

Authority of auxiliary members of police service

- (5) An auxiliary member of a police service has the authority of a police officer if he or she,
- (a) is accompanied or supervised by a police officer in accordance with the regulations made by the Minister and the procedures established by the chief of police; and
 - (b) is authorized to perform police duties by the chief of police.

Restriction

- (6) The chief of police may authorize an auxiliary member of the police service to perform police duties only in time-limited special circumstances, including an emergency, that the police officers of the police service are not sufficiently numerous to deal with.

Same

- (7) The chief of police may authorize an auxiliary member of the police service to possess or use firearms in the course of his or her duties only in exigent circumstances and subject to any regulations made by the Minister.

Oaths of office and secrecy

- (8) A person appointed to be an auxiliary member of a police service shall, at the time of his or her appointment, take oaths or affirmations of office and secrecy in the form prescribed by the Minister.

SPECIAL CONSTABLES

Special constables

Appointment

- 92** (1) A police service board or the Commissioner may appoint a person as a special constable if he or she,
- (a) has an offer of employment to be employed as a special constable from, or is currently employed as a special constable by,
 - (i) the board or the Commissioner, or
 - (ii) a special constable employer located in the area for which the board or the Commissioner has policing responsibility;
 - (b) is a Canadian citizen or a permanent resident of Canada;
 - (c) is at least 18 years of age;
 - (d) is physically and mentally able to perform the duties of the position, having regard to his or her own safety and the safety of members of the public;
 - (e) is of good character;
 - (f) has successfully completed,
 - (i) the training prescribed by the Minister, including techniques to de-escalate conflict situations and any other matters prescribed by the Minister, unless the person has been exempted from some or all of this training in accordance with the regulations made by the Minister,
 - (ii) the training approved by the Minister with respect to human rights and systemic racism, and
 - (iii) the training approved by the Minister that promotes recognition of and respect for,
 - (A) the diverse, multiracial and multicultural character of Ontario society, and
 - (B) the rights and cultures of First Nation, Inuit and Métis Peoples;
 - (g) has a secondary school diploma;
 - (h) satisfies any additional educational criteria required, by the regulations, to be appointed for the purposes specified under clause (7) (c); and
 - (i) satisfies any additional prescribed criteria.

Exception

- (2) Clauses (1) (a), (b) and (g) do not apply to a person who provides policing under the law of another jurisdiction.

Previous termination for cause

- (3) An appointment under subsection (1) shall not be made if the person's employment as a police officer in a Canadian jurisdiction was previously terminated for cause or if the person resigned in lieu of being terminated for cause.

Effect of area of policing responsibility

(4) A police service board or the Commissioner shall not appoint a person as a special constable if the special constable is likely to regularly perform his or her duties or exercise his or her powers outside of the area for which the board or the Commissioner has policing responsibility.

Exception

(5) Subsection (4) does not apply if the police service board or the Commissioner has a written agreement with the entity that has policing responsibility for the area that,

- (a) authorizes the board or the Commissioner to make such an appointment; and
- (b) addresses any other prescribed matters.

Certificate of appointment

(6) The police service board or the Commissioner shall issue a certificate of appointment to the person at the time of his or her appointment as a special constable.

Contents of certificate

(7) The police service board or the Commissioner shall specify in the certificate of appointment,

- (a) the name of the employer who may employ the appointee as a special constable;
- (b) the term of the appointment, which must not be more than the prescribed period, if any;
- (c) the purposes for which the person may act as a special constable, from among those set out in the regulations;
- (d) the powers of a police officer that the special constable may exercise, if any, to the extent and for the purposes specified in clause (c);
- (e) any weapons or prescribed equipment that the special constable is authorized to possess or use in the course of his or her duties; and
- (f) any other terms or conditions the police service board or the Commissioner consider appropriate.

Exception, special constable employer

(8) If the special constable is appointed to be employed by a special constable employer, the police service board or the Commissioner shall ensure that the terms and conditions of the appointment are consistent with the special constable employer's authorization.

Firearms

(9) The certificate of appointment shall not authorize the special constable to possess or use a firearm in the course of his or her duties unless,

- (a) the special constable provides policing in another jurisdiction and is authorized to possess or use a firearm in the course of his or her duties in that jurisdiction;
- (b) the special constable is authorized under a law of Canada to provide policing in Ontario and to possess or use a firearm in the course of his or her duties; or
- (c) the special constable is employed by the Niagara Parks Commission.

Reappointment

(10) A special constable may be reappointed at the end of his or her term.

Automatic termination

(11) A special constable's appointment is terminated, without notice and without an opportunity to respond, if he or she ceases to be employed by the employer specified in the certificate of appointment.

Transition

(12) The following rules apply to a person who held an appointment as a special constable under section 53 of the *Police Services Act* immediately before it was repealed:

1. The appointment continues under this Act and the special constable may, despite any other requirement in this section continue to act for the period, in the area and for the purpose set out in his or her appointment until the appointment expires or is terminated or until the special constable is reappointed.
2. Despite subsection 95 (6), the special constable shall continue to be subject to any restrictions on his or her use or possession of a firearm or any other equipment that were specified in his or her appointment until the appointment expires or is terminated or until the special constable is reappointed.

3. The appointment is deemed to expire three years after the day this subsection comes into force if it does not expire before then.
4. The person may be reappointed as a special constable even if he or she does not meet the educational requirements set out in clause (1) (g), and he or she may subsequently be reappointed one or more consecutive times without meeting those requirements.

Amendment to certificate of appointment

93 (1) The police service board or the Commissioner may amend a special constable's certificate of appointment, including imposing new terms and conditions or varying existing terms and conditions, after giving the special constable written notice and an opportunity to respond orally or in writing, as the police service board or the Commissioner, as the case may be, may determine.

Amendment to special constable employer's authorization

(2) If the amendment of a special constable employer's authorization under subsection 97 (6) requires that the special constable employees' certificates of appointment be amended to be consistent with the authorization, the police service board or the Commissioner shall make the required amendments in accordance with subsection (1) of this section.

Suspension and termination of special constable appointment

94 (1) A police service board or the Commissioner may suspend or terminate the appointment of a special constable who was appointed by the board or the Commissioner, as applicable.

Notice and opportunity to respond

(2) Before a special constable's appointment is terminated, he or she shall be given written notice with respect to the reasons for the termination and an opportunity to respond orally or in writing, as the police service board or the Commissioner, as the case may be, may determine.

Special constable duties

95 (1) A person appointed as a special constable under section 92 may be employed as a special constable by the employer specified in the certificate of appointment.

Restriction

(2) A special constable shall not be employed by a police service to perform all the duties of a police officer on a permanent basis, whether part-time or full-time.

Same

(3) For greater certainty, subsection (2) does not prohibit police services from authorizing special constables to escort and convey persons in custody and to perform duties related to the responsibilities of police service boards under Part XV.

Oaths of office and secrecy

(4) A special constable shall, at the time of his or her appointment, take oaths or affirmations of office and secrecy in the form prescribed by the Minister.

Duties

- (5) A special constable shall,
- (a) carry out his or her duties in accordance with the terms, conditions and purposes set out in the certificate of appointment;
 - (b) exercise any police powers conferred on him or her,
 - (i) only to the extent and for the specific purposes set out in the certificate of appointment, and
 - (ii) in accordance with the regulations, if any;
 - (c) comply with the prescribed code of conduct; and
 - (d) perform such other duties as are assigned to him or her by or under this or any other Act, including any prescribed duties.

Firearms, weapons and other equipment

(6) A special constable shall not possess or use a firearm, any other weapon or any other prescribed equipment in the course of his or her duties unless,

- (a) the special constable's certificate of appointment authorizes its possession or use; or
- (b) the special constable is authorized under a law of Canada to provide policing in Ontario and to possess or use the firearm, other weapon or equipment in the course of his or her duties.

Notice if outside area of policing responsibility

96 (1) Before a special constable exercises a power or performs a duty pursuant to his or her appointment in an area that is outside the area for which the police service board, or the Commissioner, that appointed the special constable has policing responsibility, the special constable shall give notice to the local commander of the police service that provides policing in the area.

Content of notice

(2) The notice must include the terms and conditions imposed on the special constable's certificate of appointment and a general description of the special constable's duties.

Exception, agreement

(3) Subsection (1) does not apply if the police service board, or the Commissioner, that appointed the special constable has a written agreement with the entity that has policing responsibility for the area that,

- (a) authorizes the special constable to exercise the power or perform the duty in the area; and
- (b) addresses any other prescribed matters.

Exception, notice impractical

(4) If it is impractical for the special constable to give notice to the local commander before performing a duty or exercising a power in the area, the special constable shall provide notice as soon as reasonably possible after doing so.

Exception, RCMP

(5) Subsection (1) does not apply to a special constable who is a member of the Royal Canadian Mounted Police.

SPECIAL CONSTABLE EMPLOYERS

Authorization

97 (1) A person, other than a for-profit entity, may apply to the Minister for an authorization to employ special constables.

Application

(2) The person shall make the application in the form prescribed by the Minister and include the prescribed information, if any.

Issuance of authorization

(3) If the applicant meets the prescribed requirements, the Minister may issue an authorization to employ special constables to the applicant and may impose any terms or conditions on the authorization that the Minister considers appropriate.

Factors to be considered

(4) In considering whether to issue an authorization under this section, the Minister shall take into consideration the prescribed factors, if any.

Written reasons if no authorization issued

(5) If the Minister decides not to issue an authorization to the applicant, the Minister shall provide the applicant with written reasons for the decision.

Terms and conditions may be amended

(6) The Minister may amend a special constable employer's authorization, including imposing new terms and conditions or varying existing terms and conditions of the authorization, after giving the special constable employer written notice and an opportunity to respond orally or in writing, as the Minister may determine.

Notice to police service board or the Commissioner

(7) If the Minister amends a special constable employer's authorization, the special constable employer shall notify every police service board, or the Commissioner, who appointed a special constable employee of the employer of the changes.

Notice to Minister

(8) A special constable employer shall notify the Minister of any changes in the information provided to the Minister in the employer's application for an authorization to employ special constables or of any changes that affect the person's ability to meet the prescribed requirements.

Special constable employer records

(9) If a special constable employer is not an institution within the meaning of the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act*, or is not subject to comparable legislation in another jurisdiction, then,

- (a) the special constable employer's records relating to the activities and oversight of the special constables it employs are, for the purposes of the *Freedom of Information and Protection of Privacy Act*, deemed to be in the custody and control of the Ministry; and
- (b) the Minister shall impose terms and conditions on the special constable employer's authorization to address,
 - (i) access to the records of the special constable employer for the purpose of discharging the obligations of the Ministry in relation to clause (a), and
 - (ii) the protection of personal information in the custody or control of the special constable employer that is related to the activities and oversight of the special constables it employs.

Definition

(10) In subsection (1),

“for-profit entity” means a corporation incorporated under the *Business Corporations Act* or the *Canada Business Corporations Act* or any other entity that is prescribed.

Duties of special constable employer

98 (1) A special constable employer shall,

- (a) comply with the terms and conditions of the authorization; and
- (b) perform such other duties as are assigned to it by or under this or any other Act, including any prescribed duties.

Investigation of conduct

(2) If a special constable employed by a special constable employer appears to have engaged in conduct that constitutes misconduct, contravened the terms and conditions of his or her certificate of appointment or contravened any other provision of this Act or the regulations, the special constable employer shall,

- (a) investigate the conduct and determine if it constitutes such a contravention;
- (b) report the contravention or alleged contravention to the police service board, or the Commissioner, that appointed the special constable; and
- (c) take appropriate action to remedy the contravention.

Notice of action

(3) A special constable employer that takes any action under clause (2) (c) shall immediately notify the police service board, or the Commissioner, who appointed the special constable of the action taken.

Requiring or permitting contraventions

(4) A special constable employer shall not require or permit a special constable to engage in conduct that constitutes misconduct, a contravention of the terms and conditions of his or her certificate of appointment or any other contravention of this Act or the regulations.

Compliance with investigation

(5) A special constable employer shall comply with any investigations conducted by the Complaints Director, the SIU Director or the Inspector General.

Notice to police service board or the Commissioner

(6) A special constable employer shall notify the police service board, or the Commissioner, who appointed a special constable employee of the employer if,

- (a) there is any change to the employment status of the special constable employee; or
- (b) the special constable employer becomes aware of any information that might reasonably affect an assessment of whether the special constable meets the criteria set out in subsection 92 (1).

Suspension or termination of authorization to employ

99 (1) Subject to subsection (2), the Minister may suspend or terminate a special constable employer's authorization if,

- (a) the employer provided false or misleading information under this Act or the regulations;
- (b) the employer failed to act in accordance with the terms and conditions of the authorization;
- (c) in the Minister's opinion, the employer did not take appropriate action when the employer knew or ought reasonably to have known that his, her or its special constable employee contravened the terms and conditions of his or her certificate of appointment or contravened any other provision of this Act or the regulations;
- (d) the employer no longer meets the prescribed requirements for the issuance of the authorization;

- (e) the employer failed to comply with a direction issued by the Inspector General under section 125;
- (f) the employer is not in compliance with any other provision of this Act or the regulations; or
- (g) in the Minister's opinion, the authorization is not in the public interest.

Opportunity to respond

(2) Before suspending or terminating an authorization, the Minister shall give the special constable employer written notice and an opportunity to respond orally or in writing, as the Minister may determine.

Notification

(3) The Minister must notify the special constable employer in writing of any decision to suspend or terminate his or her authorization to employ special constables as soon as possible.

SPECIAL CONSTABLES HOLDING OUT AS POLICE OFFICERS

Note: Section 100 comes into force one year after the day subsection 92 (1) comes into force.

Holding out as police officer

100 (1) No special constable shall hold himself or herself out as a police officer.

Same, employer

(2) No special constable employer shall hold his, her or its special constables out as police officers.

Same, use of terminology

(3) No special constable employer shall use the terms "police", "police service", "police force" or any similar term to describe his, her or its special constables.

Exception, other jurisdictions

(4) Subsections (1), (2) and (3) do not apply to a special constable who is appointed or employed as a police officer under the law of another jurisdiction.

Exception, First Nation Officers

(5) Subsection (3) does not apply to a special constable employer who employs First Nation Officers.

Exception, Niagara Parks Commission

(6) Subsection (3) does not prevent the Niagara Parks Commission from using the name "Niagara Parks Police Service".

Offence

(7) A special constable who contravenes subsection (1) is guilty of an offence and on conviction is liable,

- (a) in the case of a first offence, to a fine of not more than \$5,000; or
- (b) in the case of a second or subsequent offence, to a fine of not more than \$10,000.

Same

(8) A special constable employer who contravenes subsection (2) or (3) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

FIRST NATION OFFICERS

First Nation Officers

101 (1) The Commissioner may appoint a First Nation Officer to perform specified duties.

Further approval

(2) If the specified duties of a First Nation Officer relate to a First Nation reserve, the appointment also requires the approval of the reserve's police governing authority or band council.

Powers of police officer

(3) A First Nation Officer is a peace officer and has the powers of a police officer for the purpose of carrying out his or her specified duties.

Duty to consult

(4) The Commissioner shall not suspend or terminate the appointment of a First Nation Officer whose specified duties relate to a First Nation reserve without first consulting with the police governing authority or band council that approved the appointment.

Suspension or termination of appointment

(5) The power to appoint a First Nation Officer includes the power to suspend or terminate the appointment.

Notice and opportunity to respond

(6) Before a First Nation Officer's appointment is terminated, he or she shall be given written notice with respect to the reasons for the termination and an opportunity to respond orally or in writing, as the Commissioner may determine.

Oaths of office and secrecy

(7) A person appointed to be a First Nation Officer shall, at the time of his or her appointment, take oaths or affirmations of office and secrecy in the form prescribed by the Minister.

Transition

(8) A person who held an appointment as a First Nation Constable under section 54 of the *Police Services Act* immediately before it was repealed shall be deemed to be appointed as a First Nation Officer on the day this subsection comes into force.

PART VII INSPECTOR GENERAL OF POLICING

APPOINTMENT AND DUTIES

Inspector General of Policing

102 (1) The Lieutenant Governor in Council shall appoint an Inspector General of Policing and may appoint one or more deputy Inspectors General.

Term

(2) The Inspector General shall hold office for a term of five years and may be reappointed for one further term of five years.

Continuation in office

(3) The Lieutenant Governor in Council may, by order, authorize a person appointed as the Inspector General to continue to hold office after expiry of his or her term of office until the earlier of,

- (a) nine months after the expiry of his or her term of office; or
- (b) the day a successor is appointed.

Inspector General's duties

(4) The Inspector General shall,

- (a) monitor and conduct inspections of police service boards, O.P.P. detachment boards, First Nation O.P.P. boards, chiefs of police, special constable employers, police services, prescribed policing providers and the Advisory Council to ensure that they comply with this Act and the regulations;
- (b) consult with and advise police service boards, O.P.P. detachment boards, First Nation O.P.P. boards, chiefs of police, special constable employers, police services, prescribed policing providers, prescribed entities and the Advisory Council regarding compliance with this Act and the regulations;
- (c) monitor and conduct inspections of members of police service boards, O.P.P. detachment boards, First Nation O.P.P. boards and the Advisory Council to ensure that they do not commit misconduct;
- (d) develop, maintain and manage records and conduct analyses regarding compliance with this Act and the regulations;
- (e) deal with complaints under sections 106 and 107 and with disclosures of misconduct under section 185;
- (f) submit an annual report to the Minister; and
- (g) perform such other duties as are assigned to him or her by or under this or any other Act, including any prescribed duties.

Required training

(5) The Inspector General, and any deputy Inspectors General, shall not exercise any of their powers or perform any of their duties under this Act unless they have successfully completed,

- (a) the training approved by the Minister with respect to human rights and systemic racism;
- (b) the training approved by the Minister that promotes recognition of and respect for,
 - (i) the diverse, multiracial and multicultural character of Ontario society, and
 - (ii) the rights and cultures of First Nation, Inuit and Métis Peoples; and
- (c) any other training prescribed by the Minister.

Role respecting police officers and special constables

(6) The Inspector General shall not conduct inspections of police officers or special constables for the purpose of determining whether they have engaged in conduct that constitutes misconduct.

Delegation

(7) The Inspector General may delegate any of his or her powers and duties under this Act or the regulations to another person in writing, subject to any limitations, conditions or requirements set out in the delegation.

Deputy Inspector General

(8) A deputy Inspector General shall act in the place of the Inspector General if he or she is absent or unable to act and, when so acting, may exercise all the powers and shall perform all the duties of the Inspector General.

Minister's directions

(9) The Minister shall not direct the Inspector General or any inspector appointed by the Inspector General with respect to the performance of their functions under this Act.

Annual report

103 (1) On or before June 30 in each year, the Inspector General shall file an annual report with the Minister that addresses at least the following matters:

1. The activities of the Inspector General, including,
 - i. inspections conducted,
 - ii. complaints dealt with under sections 106 and 107,
 - iii. notifications sent to the Complaints Director or the SIU Director,
 - iv. directions issued under section 125, and
 - v. measures imposed under section 126.
2. The compliance of the police service boards, O.P.P. detachment boards, First Nation O.P.P. boards, chiefs of police, special constable employers, police services, prescribed policing providers and the Advisory Council with this Act and the regulations.
3. Any other prescribed matters.

Publication and tabling

(2) The Minister shall publish the annual report on the Internet.

INFORMATION

Information to Inspector General in accordance with regulations

104 (1) The police service boards, the chiefs of police, special constable employers, prescribed policing providers and administrators appointed under Part VII shall provide the Inspector General with information prescribed by the Minister related to the discharge of the Inspector General's duties under subsection 102 (4) at the frequency and in the manner set out in the regulations made by the Minister.

Information to Inspector General on request

(2) The police service boards, the chiefs of police, special constable employers, prescribed policing providers and administrators appointed under Part VII shall provide the Inspector General with such information as he or she may request from time to time.

Time to comply

(3) The information requested under subsection (2) shall be provided in the form and manner and within the time specified in the Inspector General's request.

Chief of police may decline

(4) A chief of police may decline to provide information under this section if authorized to do so by the regulations.

Personal information

105 (1) The Inspector General may collect personal information under subsection 104 (1) or (2), directly or indirectly, only if the collection is necessary for the purpose of discharging his or her duties under clause 102 (4) (a), (c), (d) or (e).

Other information serves purpose

(2) The Inspector General shall not collect or use personal information under subsection (1) if other information will serve the purpose of the collection or use.

Personal information limited to what is reasonably necessary

(3) The Inspector General shall not collect or use more personal information under subsection (1) than is reasonably necessary to meet the purpose of the collection or use.

Accuracy

(4) Before using personal information collected under subsection (1), the Inspector General shall take reasonable steps to ensure that the information is as accurate as is necessary for the purpose of the use.

De-identification

(5) The Inspector General shall take such steps as are prescribed relating to the de-identification of personal information collected under subsection (1).

Security

(6) The Inspector General shall take reasonable measures to secure the personal information collected under subsection (1).

Notice required by s. 39 (2) of FIPPA

(7) If the Inspector General collects personal information indirectly under subsection (1), the notice required by subsection 39 (2) of the *Freedom of Information and Protection of Privacy Act* may be given by,

- (a) a public notice posted on a Government of Ontario website; or
- (b) any other method that may be prescribed.

Rights of access and correction

(8) Nothing in this section limits the right of an individual under any Act to access and correct personal information about the individual.

COMPLAINTS

Board member complaints

106 (1) Any person, other than a prescribed person, who believes that a member of a police service board, an O.P.P. detachment board, a First Nation O.P.P. board or the Advisory Council has committed misconduct may make a complaint to the Inspector General in accordance with the regulations, if any.

Frivolous or vexatious or made in bad faith

(2) The Inspector General may refuse to investigate a complaint about a member of a board received under subsection (1) or from the Complaints Director if, in the Inspector General's opinion,

- (a) the complaint is frivolous, vexatious or made in bad faith; or
- (b) having regard to all the circumstances, dealing with the complaint is not in the public interest.

Same

(3) For the purposes of a determination under clause (2) (b) as to whether or not it is in the public interest to investigate a complaint, the Inspector General shall consider,

- (a) whether the subject matter of the complaint has been or is currently the subject of an investigation or inspection under this Act or a predecessor of this Act;
- (b) whether the subject matter of the complaint could be more appropriately dealt with, in whole or in part, under another Act or law or in another adequate forum;
- (c) whether a decision to not conduct an investigation would negatively impact public confidence in policing; and
- (d) whether an investigation is reasonably practicable, having regard to the information or evidence available.

Duty to inform

(4) The Inspector General shall inform the complainant of a refusal to investigate under subsection (2).

Grounds for further investigation

(5) If there appear to be grounds to believe that the member has committed misconduct, the Inspector General shall,

- (a) investigate the matter, including, if appropriate, by appointing an inspector to exercise the powers of an inspector under this Part; and
- (b) inform the complainant about the investigation and keep him or her apprised of the steps taken to resolve the complaint.

No grounds for further investigation

(6) If there do not appear to be grounds to investigate the matter further, the Inspector General shall inform the complainant and take no further action under this section.

Costs

(7) The Inspector General may charge the costs of an investigation into whether a member of a police service board, an O.P.P. detachment board or a First Nation O.P.P. board has committed misconduct to the board the person is a member of.

Policing complaints

107 (1) Any person, other than a prescribed person, may make a complaint to the Inspector General in accordance with the regulations, if any, regarding,

- (a) the adequacy and effectiveness of policing provided under this Act or the regulations, including policing provided by a prescribed policing provider, special constable employer or prescribed entity;
- (b) a failure of a police service board, O.P.P. detachment board, First Nation O.P.P. board, chief of police, special constable employer, police service, prescribed policing provider or the Advisory Council to comply with this Act or the regulations, other than misconduct, including a systemic failure;
- (c) the policies of a police service board, an O.P.P. detachment board, a First Nation O.P.P. board or the Minister; or
- (d) the procedures established by a chief of police.

Frivolous or vexatious or made in bad faith

(2) The Inspector General may dismiss the complaint and take no further action under this section if, in the Inspector General's opinion,

- (a) the complaint is frivolous, vexatious or made in bad faith; or
- (b) having regard to all the circumstances, dealing with the complaint is not in the public interest.

Same

(3) For the purposes of a determination under clause (2) (b) as to whether or not it is in the public interest to investigate a complaint, the Inspector General shall consider,

- (a) whether the subject matter of the complaint has been or is currently the subject of an investigation or inspection under this Act or a predecessor of this Act;
- (b) whether the subject matter of the complaint could be more appropriately dealt with, in whole or in part, under another Act or law or in another adequate forum;
- (c) whether a decision to not conduct an investigation would negatively impact public confidence in policing; and
- (d) whether an investigation is reasonably practicable, having regard to the information or evidence available.

Duty to inform

(4) The Inspector General shall inform the complainant of a dismissal under subsection (2).

Grounds for investigation

(5) If there appear to be grounds to believe that the matter complained of warrants investigation, the Inspector General shall,

- (a) investigate the matter, including, if appropriate, by appointing an inspector to exercise the powers of an inspector under this Part; and
- (b) inform the complainant about the investigation and keep him or her apprised of the steps taken to resolve the complaint.

Policy or procedure complaint

(6) If the complaint does not relate to the matters referred to in clause (1) (a) or (b), or if there do not appear to be grounds to investigate those matters, and if the complaint relates to the policies or procedures referred to in clause (1) (c) or (d), the Inspector General shall,

- (a) forward the complaint to the Minister and to,
 - (i) the Advisory Council, if the complaint relates to the policies of the Minister or procedures established by the Commissioner,
 - (ii) the police service board that maintains the police service, if the complaint relates to the board's policies or the procedures established by the chief of police, or

(iii) the O.P.P. detachment board or the First Nation O.P.P. board, if the complaint relates to the board's procedures; and

(b) inform the complainant of the decision and of the persons or bodies that the complaint has been forwarded to.

Report back

(7) A police service board, O.P.P. detachment board or First Nation O.P.P. board that receives a complaint under subsection (6) shall,

- (a) review the complaint as it relates to the policies or procedures referred to in clause (1) (c) or (d);
- (b) report back to the Inspector General within the time specified by the Inspector General, if any, about any steps taken in response to the complaint; and
- (c) report to the Minister about any steps taken in response to the complaint.

Same

(8) The Minister shall review any complaint regarding the Minister's policies or the procedures established by the Commissioner and report back to the Inspector General within the time specified by the Inspector General, if any, about any steps taken in response to the complaint.

Minister's review

(9) The Minister shall review any complaint received under clause (6) (a) for the purpose of considering whether changes are required regarding training or the requirements established under this Act or the regulations.

No grounds for further investigation, other complaint

(10) If there do not appear to be grounds to investigate the matter, or to investigate it further, and the complaint does not relate to the policies or procedures referred to in clause (1) (c) or (d), the Inspector General shall inform the complainant and take no further action under this section.

Forwarding of complaints

108 (1) If a person who may make a complaint under section 106 or 107 to the Inspector General instead makes the complaint to any of the following persons or entities, that person or entity shall forward the complaint to the Inspector General, inform the person who made the complaint that the complaint has been forwarded, and provide the person with information about the role of the Inspector General:

1. The Minister.
2. The Complaints Director, a deputy Complaints Director or an investigator appointed under section 136.
3. The SIU Director or an employee or investigator in the Special Investigations Unit.
4. A chief of police.
5. A police service board or a member of a police service board.
6. An O.P.P. detachment board or a member of an O.P.P. detachment board.
7. A First Nation O.P.P. board or a member of a First Nation O.P.P. board.
8. The Advisory Council or a member of the Advisory Council.
9. A special constable employer.
10. A prescribed entity.
11. A prescribed policing provider.
12. Any other person or entity prescribed by the Minister.

Complaint received by member of police service or special constable

(2) If a person who may make a complaint to the Inspector General under section 106 or 107 instead makes the complaint to a member of a police service other than a chief of police or to a special constable who is not a member of a police service, the member of a police service or special constable shall notify his or her chief of police or special constable employer of the complaint, and subsection (1) of this section applies, with necessary modifications, as if the complaint had been made to the chief of police or special constable employer.

Deemed to have been made to Inspector General

(3) The complaint of a person that is forwarded to the Inspector General under this section is deemed for the purposes of this Act to have been made by the person directly to the Inspector General.

Complaints by Minister

109 (1) For greater certainty, the Minister may make a complaint under section 106 or 107.

Decline investigation

(2) If the Minister makes a complaint under section 106 or 107, the Inspector General may decline to act on it and shall provide the Minister with written reasons for that decision.

Interpretation, portion of a complaint

110 This Part applies to a portion of a complaint as if it were a complaint, unless the context indicates otherwise.

INSPECTIONS

Inspectors

111 (1) The Inspector General may appoint such inspectors as are necessary to conduct the inspections referred to in subsection (2).

Power to inspect

- (2) The Inspector General may cause an inspection to be conducted by an inspector for the purpose of,
- (a) ensuring that a police service board, O.P.P. detachment board, First Nation O.P.P. board, chief of police, special constable employer, police service, prescribed policing provider or the Advisory Council is complying with this Act and the regulations;
 - (b) ensuring that a member of a police service board, an O.P.P. detachment board, a First Nation O.P.P. board or the Advisory Council has not committed misconduct; or
 - (c) discharging any other duties assigned to the Inspector General under this Act or the regulations.

Required training

(3) An inspector appointed under this section shall not exercise any of his or her powers or perform any of his or her duties under this Act unless he or she has successfully completed,

- (a) the training approved by the Minister with respect to human rights and systemic racism;
- (b) the training approved by the Minister that promotes recognition of and respect for,
 - (i) the diverse, multiracial and multicultural character of Ontario society, and
 - (ii) the rights and cultures of First Nation, Inuit and Métis Peoples; and
- (c) any other training prescribed by the Minister.

Conduct that constitutes misconduct

(4) The inspectors shall not conduct inspections for the purpose of determining whether a police officer or special constable has engaged in conduct that constitutes misconduct.

Inspector General and deputies are inspectors

(5) The Inspector General and any deputy Inspectors General are, by virtue of their office, inspectors.

Certificate of appointment

(6) The Inspector General shall issue to every inspector appointed under this section a certificate of appointment.

Identification

(7) Every inspector who exercises powers under this Act shall, on request, identify himself or herself as an inspector, produce a copy of any certificate of appointment issued to the inspector and explain the purpose of the exercise of the powers.

Limitation on authority

(8) The Inspector General may, in the inspector's certificate of appointment, limit the inspector's authority in such manner as the Inspector General considers necessary or advisable.

Inspection timing

(9) An inspector conducting an inspection described in clause (2) (b) shall endeavour to ensure that the inspection is concluded within 120 days.

Status report

(10) If the timing requirements of subsection (9) are not met in respect of an inspection, the inspector shall give notice of the status of the inspection to the subject of the inspection every 30 days until it is concluded unless, in the opinion of the inspector, doing so might prejudice the inspection.

Request for inspection by Minister

(11) The Minister may request that the Inspector General cause an inspection to be conducted under subsection (2).

Decline inspection

(12) If the Minister makes a request under subsection (11), the Inspector General may decline to cause the inspection to be conducted and shall provide the Minister with written reasons for that decision.

Restrictions on inspections**Commissioner or O.P.P.**

112 (1) An inspector shall not conduct an inspection regarding a matter related to the Ontario Provincial Police if the inspector is, or has been, a member of the Ontario Provincial Police.

Employed by entity

(2) An inspector shall not conduct an inspection regarding a matter related to an entity if the inspector is, or has been, employed by the entity.

Employed by police service board

(3) An inspector shall not inspect a chief of police under this Part if the inspector and the chief are, or have been, employed by the same police service board.

Inspection without order

113 (1) An inspector may, at any reasonable time, enter a place, including a receptacle or vehicle, owned or occupied by a police service board, O.P.P. detachment board, First Nation O.P.P. board, special constable employer, prescribed policing provider, prescribed entity or the Advisory Council, or used by members of a police service, for a purpose described in subsection 111 (2) if the inspector reasonably believes that,

- (a) the place contains a thing, document or data relevant to that purpose; or
- (b) an activity relating to the purpose of the inspection is occurring or has occurred at the place.

Expert help

(2) The inspector may be accompanied and assisted by persons who have special, expert or professional knowledge.

No inspection of dwellings without order

(3) The inspector shall not enter, without the occupier's consent, a place or part of a place used as a dwelling under this section.

No force

(4) The inspector shall not use force to enter a place under this section.

Inspection order

114 (1) An inspector may, without notice, apply to a justice of the peace or a provincial judge for an order under this section to enter and inspect,

- (a) a place described in subsection 113 (1) that is a dwelling or that contains a dwelling; or
- (b) a place, including a receptacle or vehicle, that is used by a chief of police or a member of a police service board, an O.P.P. detachment board, a First Nation O.P.P. board or the Advisory Council in relation to the performance of his or her duties under this Act or the regulations.

Issuance of order

(2) A justice of the peace or provincial judge may issue an order authorizing the inspector to enter a place referred to in subsection (1) and to exercise any of the powers set out in the order if the justice or judge is satisfied on information under oath or affirmation that,

- (a) the inspection is for a purpose described in subsection 111 (2); and
- (b) there are reasonable grounds to believe that,
 - (i) the place contains a thing, document or data relevant to the purpose of the inspection, or
 - (ii) an activity relating to the purpose of the inspection is occurring or has occurred at the place.

Powers on entry

(3) The order may, in relation to the inspection, authorize the inspector to exercise any or all of the powers set out in subsection 115 (1).

Dwelling

(4) Despite subsection (1), the inspector shall not exercise the power under an order to enter a place or part of a place used as a dwelling, unless the justice of the peace or provincial judge is informed that the order is being sought to authorize entry into a dwelling and the order authorizes the entry into the dwelling.

Expert help

(5) The order issued under subsection (1) may authorize persons who have special, expert or professional knowledge to accompany and assist the inspector in the execution of the order.

Conditions

(6) The order may contain terms and conditions in addition to those provided for in subsection (1) as the justice of the peace or provincial judge, as the case may be, considers advisable in the circumstances.

Time of execution

(7) The order shall be executed between 6 a.m. and 9 p.m., unless it specifies otherwise.

Expiry of order

(8) The order is valid for 30 days or for such shorter period as may be specified in it.

Further orders

(9) A justice of the peace or provincial judge may issue further orders under subsection (1).

No force

(10) The inspector shall not use force to enter a place under this section.

Inspection powers

115 (1) An inspector may do one or more of the following in the course of entering a place and conducting an inspection under this Part:

1. Examine anything that relates to the inspection.
2. Examine, record or copy any thing, data or information, in any form, by any method.
3. Require the production of any document or data, in any form, required to be kept under this Act or the regulations and of any other document or data, in any form, related to the purpose of the inspection.
4. Remove from the place, for the purpose of making copies, documents or data produced under paragraph 3.
5. Make reasonable inquiries of any person, orally or in writing.
6. Take samples for analysis.
7. Conduct tests or make measurements.

Limitation

(2) A record or copy made under paragraph 2 of subsection (1) must be made in a manner that does not intercept any private communication and that accords with reasonable expectations of privacy.

Document or data in electronic form

(3) If a document or data is retained in electronic form, an inspector may require that a copy of it be provided to him or her on paper or electronically, or both.

Obligation to produce and assist

(4) If the inspector requires that a person produce or provide access to a thing, document or data, the person shall do so in the manner and within the period specified by the inspector and shall, if requested to do so, provide any assistance that is reasonably necessary to permit the inspector to understand the thing, document or data.

Limitation re removal

(5) An inspector shall not remove things, documents or data under paragraph 4 of subsection (1) without giving a receipt for them and shall promptly return them to the person who produced them.

Power to exclude persons

(6) An inspector who exercises the power set out in paragraph 5 of subsection (1) may exclude any person from the questioning.

Closed meetings

(7) An inspector has the authority to enter a meeting of the Advisory Council, a police service board, an O.P.P. detachment board, a First Nation O.P.P. board or a committee of such a board for the purpose of conducting an inspection under this Part, except,

- (a) any part of the meeting in which the subject matter being considered is advice that would be inadmissible in a court by reason of any privilege under the law of evidence; or
- (b) in prescribed circumstances.

Notification

(8) An inspector shall immediately advise a person who is required to do anything under this section and the person's employer, if applicable, respecting a failure of the person to comply with this section and, in doing so, shall inform each of them of the penalty to which a person is liable under section 129.

Power to require response to inquiries

116 (1) An inspector may, at any reasonable time, require any of the following persons or entities to respond to reasonable inquiries related to the purpose of the inspection:

- 1. A member or employee of a police service board, including a member of a police service maintained by a police service board.
- 2. A member of the Ontario Provincial Police.
- 3. A member or employee of an O.P.P. detachment board, a First Nation O.P.P. board or the Advisory Council.
- 4. A special constable employer, a prescribed policing provider or a prescribed entity, or an officer, director or employee of such an employer, provider or entity.
- 5. An entity that employs First Nation Officers who are providing policing functions in accordance with an agreement under section 27.

Same

(2) For the purposes of subsection (1), an inspector may make inquiries by any means of communication.

Orally or in writing

(3) The inspector may require the person to respond orally or in writing, as the inspector may determine.

Production

(4) In requiring a person to respond to an inquiry under subsection (1), an inspector may require the production of any thing, document or data related to the inquiry.

Document or data in electronic form

(5) If a document or data is retained in electronic form, an inspector may require that a copy of it be provided to him or her on paper or electronically, or both.

Notification

(6) An inspector shall immediately advise a person who is required to do anything under this section and the person's employer, if applicable, respecting a failure of the person to comply with this section and, in doing so, shall inform each of them of the penalty to which a person is liable under section 129.

Detention of things, documents or data

117 An inspector may detain any thing, document or data obtained under section 115 or 116 for any period and for any purpose relating to enforcing this Act and the regulations.

Privilege preserved

118 Nothing in this Part shall operate so as to require the disclosure of information that would be inadmissible in a court by reason of any privilege under the law of evidence, or permit the review of anything containing such information.

Confidentiality

119 The Inspector General and every deputy Inspector General and inspector appointed under section 111 shall preserve secrecy in respect of all information obtained by him or her in the course of exercising a power or performing a duty under this Act and shall not communicate any such information to any person except,

- (a) as may be required in connection with the administration of this Act or the regulations;
- (b) to his or her counsel;
- (c) as may be required for law enforcement purposes;
- (d) with the consent of the person, if any, to whom the information relates; or
- (e) where disclosure is otherwise required by law.

Notice

SIU notification

120 (1) If, in the course of an inspection under this Part, an inspector becomes aware of an incident that a designated authority would have a duty to report under section 16 of the *Special Investigations Unit Act, 2019*, the inspector shall notify the SIU Director unless the inspector believes the SIU Director has already been notified.

Misconduct notice

(2) If, in the course of an inspection under this Part, an inspector becomes aware that a police officer, special constable employed by the Niagara Parks Commission, a member of a police service board, an O.P.P. detachment board, a First Nation O.P.P. board or the Advisory Council, or a peace officer in the Legislative Protective Service may have engaged in conduct that constitutes misconduct,

- (a) the inspector shall notify the Inspector General; and
- (b) if the Inspector General determines that it is appropriate to do so, the Inspector General shall notify the Complaints Director.

Police criminal offence or incapacity notice

(3) If, in the course of an inspection under this Part, an inspector reasonably suspects that a member of a police service may have committed a criminal offence that does not meet the criteria to notify the SIU Director under subsection (1) or may be incapable of performing the duties of the member's position, the inspector shall notify the member's chief of police or, if the member is a chief of police or a deputy chief of police, the Inspector General.

Special constable incapacity notice

(4) If, in the course of an inspection under this Part, an inspector reasonably suspects that a special constable employed by a special constable employer may be incapable of performing the duties of his or her position, the inspector shall notify the special constable employer and the police service board, or the Commissioner, that appointed the special constable.

Other persons, criminal offences

(5) If, in the course of an inspection under this Part, an inspector reasonably suspects that a member of a police service, a police service board, an O.P.P. detachment board, a First Nation O.P.P. board or of the Advisory Council or a member, director, officer or employee of a special constable employer, prescribed policing provider or prescribed entity may have committed a criminal offence, the inspector shall notify the Inspector General.

Referral to other chief of police

121 If the Inspector General is notified under subsection 120 (3) or (5) that a criminal offence may have been committed,

- (a) the Inspector General shall refer the matter to the chief of police of an unrelated police service; and
- (b) the chief of police referred to in clause (a) shall investigate the matter.

Board member duties during and after investigation

122 (1) The Inspector General may direct a member of a police service board, an O.P.P. detachment board, a First Nation O.P.P. board or the Advisory Council to decline to exercise his or her powers or perform his or her duties as a member of the board from the beginning of an investigation into the member's conduct or work performance under this Part until,

- (a) the member receives notice from the Inspector General that no further action will be taken in respect of the investigation; or
- (b) the Inspector General exercises a power under section 124 as a result of the investigation.

Not enough members

(2) If the application of subsection (1) results in a board not having enough members able to exercise their powers or perform their duties in order to constitute a quorum, the Inspector General may appoint the number of persons necessary to constitute a quorum, who shall act in the place of the members who are unable to exercise their powers or perform their duties.

Same

(3) The Inspector General shall,

- (a) specify in an appointment made under subsection (2) that the appointee may only exercise such powers or perform such duties as are necessary for the effective operation of the board during the investigation and, for such purpose, may specify the powers or duties the appointee may or may not exercise or perform; and
- (b) cancel an appointment made under subsection (2) as soon as the investigation is over.

RESULTS OF INSPECTION

Results of inspection

123 (1) An inspector who completes an inspection under this Part shall report his or her findings to the Inspector General.

Inspector General's notification

(2) Unless the regulations provide otherwise, the Inspector General shall notify the subject of the inspection and, in the case of an investigation into board member misconduct, the person or entity who appointed the member of the findings in the report.

Publication

(3) The Inspector General shall publish the report made under subsection (1) on the Internet in accordance with the regulations, if any.

Inspector General's powers

124 (1) If, in the opinion of the Inspector General, the report made under subsection 123 (1) discloses evidence that a member of a board or the Advisory Council has committed misconduct, the Inspector General may,

- (a) reprimand the member of the board;
- (b) suspend the member of the board for a specified period or until he or she has complied with specified conditions or, in the case of a member of the Advisory Council, recommend that the Lieutenant Governor in Council impose such a suspension; or
- (c) remove the member from the board or, in the case of a member of the Advisory Council, recommend that the Lieutenant Governor in Council remove him or her from the board.

Before imposing measures

(2) Before exercising a power under subsection (1), the Inspector General shall provide written notice of the proposed measures to the member and to his or her board and provide the member an opportunity to respond orally or in writing, as the Inspector General may determine.

Exercise of powers

(3) After considering the response, if any, the Inspector General may implement the proposed measures, impose a lesser measure or rescind his or her intention to implement them.

Notice

(4) The Inspector General shall notify the board or the Advisory Council, as applicable, and the person or entity who appointed the member of any action taken under subsection (1).

Replacement of suspended or removed member

(5) If the Inspector General suspends a member of a board or removes him or her from office, the entity responsible for appointing members of the board shall appoint a person to replace the member.

Suspension with or without pay

(6) If the Inspector General suspends a member of a board who is entitled to remuneration, the Inspector General shall specify whether the suspension is with or without pay.

Consequences of removal and suspension

(7) A member who has been removed from a board under this section is not eligible to be a member of a police service board, an O.P.P. detachment board, a First Nation O.P.P. board or the Advisory Council, and a member who has been suspended shall not be reappointed during the period of suspension.

Report

(8) The Inspector General shall prepare a report respecting any action taken under subsection (1) and publish it on the Internet in accordance with the regulations made by the Minister, if any.

Non-compliance with Act or regulations

125 (1) If, in the opinion of the Inspector General, the report made under subsection 123 (1) discloses evidence of non-compliance with a requirement of this Act or the regulations, or evidence that an act or omission will likely result in such non-compliance, the Inspector General may issue any directions to a police service board, O.P.P. detachment board, First Nation O.P.P. board, chief of police, special constable employer, police service, prescribed policing provider or the Advisory Council that he or she considers advisable to remedy or prevent the non-compliance.

Directions

(2) For greater certainty, a direction under subsection (1) may include a direction requiring the reassignment of an investigation to a different police service.

Consideration

(3) Without restricting the matters the Inspector General shall consider when deciding whether to issue a direction under subsection (1), the Inspector General shall consider whether the non-compliance or likelihood of non-compliance is the result of exceptional circumstances beyond the control of the non-compliant person.

Non-application

(4) Subsection (1) does not apply with respect to non-compliance or potential non-compliance that constitutes misconduct.

Direction

(5) The direction shall,

- (a) be in writing;
- (b) specify the provision of this Act or the regulations that the Inspector General believes has not been complied with or is likely to not be complied with; and
- (c) briefly describe the nature of the non-compliance or likely non-compliance.

Reconsideration

(6) The Inspector General may vary or revoke a direction issued under this section.

Time to comply

(7) The subject of the direction shall comply with it within the time period specified in the direction.

Copy to Minister

(8) The Inspector General shall provide a copy of every direction issued under this section to the Minister and publish it on the Internet in accordance with the regulations, if any.

Failure to comply with Inspector General's direction

126 (1) If the subject of a direction issued under section 125 fails to comply with it, the Inspector General may impose any of the following measures or any combination of them to remedy the non-compliance:

1. In the case of a police service, other than the Ontario Provincial Police, a police service board or a chief of police, other than the Commissioner, the Inspector General may,
 - i. suspend the chief of police, one or more members of the police service board, or the whole board, for a specified period,
 - ii. remove the chief of police, one or more members of the police service board, or the whole board, from office,
 - iii. appoint an administrator to administer the police service or to perform other specified functions with respect to policing in the area served by the police service in accordance with section 127, or
 - iv. dissolve the police service board and disband the police service.
2. In the case of the Ontario Provincial Police or the Commissioner, the Inspector General may,
 - i. direct the Commissioner to comply with the direction,
 - ii. recommend to the Lieutenant Governor in Council that the Commissioner be suspended or removed from office, or
 - iii. with the approval of the Lieutenant Governor in Council, appoint an administrator to administer the Ontario Provincial Police or to perform other specified functions with respect to policing in the area served by the police service in accordance with section 127.
3. In the case of an O.P.P. detachment board or First Nation O.P.P. board, the Inspector General may,
 - i. suspend one or more members of the board, or the whole board, for a specified period,

- ii. remove one or more members of the board, or the whole board, from office, or
 - iii. in the case of a First Nation O.P.P. board, dissolve the board.
4. In the case of the Advisory Council, the Inspector General may,
 - i. suspend one or more members of the Council, or the whole Council, for a specified period, or
 - ii. recommend to the Lieutenant Governor in Council that one or more members of the Council, or the whole Council, be removed from office.
 5. In the case of a special constable employer, the Inspector General may terminate or impose terms and conditions on the special constable employer's authorization to employ special constables.
 6. In the case of a prescribed policing provider, the Inspector General may appoint an administrator to administer it in accordance with section 127.

Before imposing measure

(2) Before imposing a measure under subsection (1), the Inspector General shall provide written notice to the affected person or body of the proposed measures and provide an opportunity to respond orally or in writing, as the Inspector General may determine.

Imposition of measures

(3) After considering the response, if any, the Inspector General may implement the proposed measures, impose a lesser measure or rescind his or her intention to implement them.

Notice

(4) The Inspector General shall immediately provide notice of any measure implemented under this section to the Minister and, if the measure is taken against an individual, the Inspector General shall also immediately notify,

- (a) in the case of a chief of police or deputy chief of police, other than the Commissioner or a deputy Commissioner, the police service board; or
- (b) in the case of a member of a police service board, an O.P.P. detachment board a First Nation O.P.P. board or the Advisory Council, the person or entity who appointed the member.

Criteria for dissolving and disbanding

(5) The Inspector General may dissolve a police service board and disband a police service only if he or she is satisfied that there is no reasonable alternative to ensure the provision of adequate and effective policing.

Replacement of chief of police

(6) If the Inspector General suspends or removes a chief of police, the Inspector General may appoint a replacement.

Replacement of suspended or removed member

(7) If the Inspector General suspends a member of a police service board, O.P.P. detachment board, First Nation O.P.P. board or the Advisory Council or removes him or her from office, the municipality, band council or the Lieutenant Governor in Council, as the case may be, shall appoint a person to replace the member.

Suspension with or without pay

(8) If the Inspector General suspends a chief of police or a member of a police service board, O.P.P. detachment board, First Nation O.P.P. board or the Advisory Council who is entitled to remuneration, the Inspector General shall specify whether the suspension is with or without pay.

Revocation of suspension

(9) The Inspector General may revoke a suspension issued under this section at any time.

Extension of suspension

(10) The Inspector General may extend a suspension issued under this section after providing notice and an opportunity to respond to the suspended person, orally or in writing, as the Inspector General may determine.

Consequences of removal and suspension

(11) A member who has been removed from a board under this section is not eligible to be a member of a police service board, an O.P.P. detachment board, a First Nation O.P.P. board or the Advisory Council, and a member who has been suspended shall not be reappointed during the period of suspension.

Report

(12) The Inspector General shall prepare a report respecting any action taken under subsection (1) and publish it on the Internet in accordance with the regulations made by the Minister, if any.

Administrators

127 (1) This section applies to an administrator appointed to administer a police service or prescribed policing provider under section 126.

Term of office

(2) The appointment of an administrator is valid until terminated by order of the Inspector General.

Powers of administrator

(3) Unless the appointment provides otherwise, the administrator has the exclusive right to exercise all of the powers of the police service board, chief of police or governing body of the prescribed policing provider.

Same

(4) The Inspector General may specify the powers and duties of an administrator in the appointment and set out the terms and conditions governing those powers and duties.

Additional powers of administrator

(5) If, under the order of the Inspector General, the police service board, chief of police or governing body of the prescribed policing provider continues to have the right to act with regard to any matters, any such act is valid only if approved in writing by the administrator.

Right of access

(6) An administrator has the same rights as the police service board, chief of police, governing body of the prescribed policing provider or the chief executive officer of the prescribed policing provider, as the case may be, in respect of the documents, data and information of the police service or prescribed policing provider.

Reports

(7) An administrator shall report to the Inspector General as required by the Inspector General.

Directions

(8) The Inspector General may issue directions to an administrator with regard to any matter within the jurisdiction of the administrator.

Directions to be followed

(9) An administrator shall carry out every direction issued under subsection (8).

Emergency, interim measure

128 (1) The Inspector General may impose a measure under section 126 without notice and without an opportunity to respond if he or she is of the opinion that an emergency exists and that an interim measure is necessary to ensure the provision of adequate and effective policing.

Restriction

(2) The Inspector General shall not remove a person from office, dissolve a board or disband a police service by means of an interim measure.

Requirements in s. 126 apply

(3) All of the requirements in section 126, other than subsections 126 (2) and (3), apply to the imposition of the interim measure.

Administrators

(4) Section 127 applies, with necessary modifications, to an administrator appointed by the Inspector General under this section to administer a police service or prescribed policing provider.

Limitation

(5) An interim measure may not be in force for longer than the prescribed period.

OFFENCES

Prohibition

129 (1) No person shall harass, coerce or intimidate, or attempt to harass, coerce or intimidate, any other person in relation to a complaint made or investigation conducted under this Part.

Same

(2) No person shall intentionally hinder or obstruct or attempt to hinder or obstruct an inspector in the performance of his or her duties under this Part or furnish him or her with false or misleading information.

Failure to provide information

(3) No person shall refuse to provide information to the Inspector General if required to do so under this Act or the regulations.

False or misleading information

(4) No person shall intentionally submit false or misleading information to the Inspector General.

Offence

- (5) An individual who contravenes subsection (1), (2), (3) or (4) is guilty of an offence and on conviction is liable,
- (a) in the case of a first offence, to a fine of not more than \$5,000, to an imprisonment for a term of not more than one year, or to both; or
 - (b) in the case of a second or subsequent offence, to a fine of not more than \$10,000, to an imprisonment for a term of not more than one year, or to both.

Same

(6) A person other than an individual that contravenes subsection (1), (2), (3) or (4) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

**PART VIII
LAW ENFORCEMENT COMPLAINTS AGENCY**

Law Enforcement Complaints Agency

130 (1) The office of the Independent Police Review Director is continued under the name “Law Enforcement Complaints Agency” in English and “Agence des plaintes contre les forces de l’ordre” in French.

Composition

- (2) The Law Enforcement Complaints Agency shall be headed by the Complaints Director appointed under subsection 131 (1) and shall, in addition to the Director, consist of,
- (a) any deputy Complaints Directors appointed under that subsection; and
 - (b) persons appointed as employees in the Agency in accordance with section 135.

Complaints Director

131 (1) The Lieutenant Governor in Council shall appoint a person as Complaints Director, and may appoint one or more deputy Complaints Directors.

Restriction

(2) A person who is or was a person referred to in section 152 may not be appointed as Complaints Director or a deputy Complaints Director.

Term

(3) The Complaints Director shall hold office for a term of five years and may be reappointed for one further term of five years.

Remuneration

(4) The Complaints Director and any deputy Complaints Directors shall be paid such remuneration and allowance for expenses as may be fixed by the Lieutenant Governor in Council.

Delegation

(5) The Complaints Director may, in writing, delegate any of his or her powers or duties under this Act to a deputy Complaints Director or an employee in the Law Enforcement Complaints Agency, subject to such conditions or restrictions as the Director may set out in the delegation.

Deputy Complaints Director

(6) A deputy Complaints Director shall act in the place of the Complaints Director if he or she is absent or unable to act and, when so acting, may exercise all the powers and shall perform all the duties of the Complaints Director.

Functions

- 132** (1) The Complaints Director,
- (a) shall deal with public complaints made under Part X in accordance with that Part and the regulations;
 - (b) shall implement programs and services to assist members of the public in making complaints under Part X;

- (c) shall publish statistical reports for the purpose of informing the evaluation, management and improvement of policing in Ontario and the management of public complaints under Part X; and
- (d) shall perform the duties, and may exercise the powers, that are set out under this Act, including any additional duties and powers that may be prescribed.

Required training

- (2) The Complaints Director or a deputy Complaints Director shall not exercise powers or perform duties under this Act unless he or she has successfully completed,
- (a) the training approved by the Minister with respect to human rights and systemic racism;
 - (b) the training approved by the Minister that promotes recognition of and respect for,
 - (i) the diverse, multiracial and multicultural character of Ontario society, and
 - (ii) the rights and cultures of First Nation, Inuit and Métis Peoples; and
 - (c) any other training prescribed by the Minister.

Minister's directions

- (3) The Minister shall not direct the Complaints Director, a deputy Complaints Director or any investigator appointed by the Complaints Director with respect to the performance of their functions under this Act.

Review of systemic issues

133 (1) The Complaints Director may examine and review issues of a systemic nature that,

- (a) have been the subject of complaints or investigations under Part X respecting a person referred to in section 152; or
- (b) may contribute or are otherwise related to misconduct by a person referred to in section 152.

Prior notice to Inspector General

- (2) Before commencing a review under this section, the Complaints Director shall notify the Inspector General.

Recommendations

- (3) Following a review under subsection (1), the Complaints Director may,
- (a) make written recommendations to the Inspector General, the Minister, a chief of police, a police service board or any other person or body; and
 - (b) require in writing that a person or body to whom recommendations are made under clause (a) provide a written response, which must include a statement as to whether the recommendations have been accepted and, if not, the reasons why.

Timing of response

- (4) A response shall be provided under clause (3) (b) as soon as possible, but in no event later than six months after notification of the requirement is given by the Complaints Director.

Report

- (5) The Complaints Director shall issue a report of every review under subsection (1), including any recommendations, and shall provide a copy of the report to the Inspector General.

Publication

- (6) The report and every response provided under clause (3) (b) shall be published on the Internet in accordance with the regulations made by the Minister, if any.

Notice to SIU Director

- (7) If the Complaints Director determines that a matter being reviewed under this section may constitute an incident that a designated authority would have a duty to report under section 16 of the *Special Investigations Unit Act, 2019*, the Complaints Director shall notify the SIU Director.

Notice to Inspector General

- (8) If the Complaints Director determines that a matter being reviewed under this section may constitute criminal conduct and is not an incident that a designated authority would have a duty to report under section 16 of the *Special Investigations Unit Act, 2019*, the Complaints Director may notify the Inspector General.

Rules

- 134** (1) The Complaints Director may make procedural rules for anything related to his or her powers and duties under this Act.

Publication

(2) Rules made under subsection (1) shall be in writing and shall be published on the Law Enforcement Complaints Agency's website.

Not a regulation

(3) Part III of the *Legislation Act, 2006* does not apply to rules made under subsection (1).

Employees

135 (1) Such employees as are considered necessary for the proper conduct of the Law Enforcement Complaints Agency may be appointed under Part III of the *Public Service of Ontario Act, 2006*.

Restriction

(2) A person referred to in section 152 may not be appointed as an employee for the purposes of subsection (1).

Investigators

136 (1) The Complaints Director may appoint as investigators such employees in the Law Enforcement Complaints Agency or other persons as he or she considers necessary to carry out reviews under section 133 and investigations under Part X, and such appointments shall be in writing.

Restriction

(2) A person referred to in section 152 may not be appointed as an investigator.

Restriction, requirements and qualifications

(3) A person may not be appointed as an investigator unless he or she meets the requirements and qualifications prescribed by the Minister, if any.

Limit on certain persons

(4) The number or proportion of persons who were any of the persons referred to in section 152 and that are appointed as investigators or as a class of investigators prescribed by the Minister shall not exceed any limits that may be prescribed by the Minister.

Required training

(5) An investigator appointed under this section shall not exercise any of his or her powers or duties under this Act unless he or she has successfully completed,

- (a) the training approved by the Minister with respect to human rights and systemic racism;
- (b) the training approved by the Minister that promotes recognition of and respect for,
 - (i) the diverse, multiracial and multicultural character of Ontario society, and
 - (ii) the rights and cultures of First Nation, Inuit and Métis Peoples; and
- (c) any other training prescribed by the Minister.

Certificate of appointment

(6) The Complaints Director shall issue to every investigator appointed under this section a certificate of appointment.

Limitation on authority

(7) The Complaints Director may, in the investigator's certificate of appointment, limit the investigator's authority in such manner as the Complaints Director considers necessary or advisable.

Director as investigator

(8) The Complaints Director and every deputy Complaints Director is, by virtue of his or her office, an investigator.

Identification

(9) Every investigator who exercises powers under this Act shall, on request, identify himself or herself as an investigator, produce a copy of any certificate of appointment issued to the investigator, and explain the purpose of the exercise of the powers.

Application of *Public Inquiries Act, 2009*

137 Section 33 of the *Public Inquiries Act, 2009* applies to a review or investigation under this Act by the Complaints Director or an investigator appointed under section 136.

Investigation powers, place owned or occupied by police, etc.

138 (1) If an investigator believes that to do so is necessary for the purposes of an investigation under this Part, he or she may, at any reasonable time, enter and search a place that is used by a police service or owned or occupied by a police service board, or the Niagara Parks Commission, on notice to the owner or occupier of the place.

Powers on entry

- (2) An investigator conducting an investigation at a place referred to in subsection (1) may,
- (a) require a person to produce or provide access to any record, thing, data or information that relates to the investigation;
 - (b) search for, examine, copy or remove any record, thing, data or information that relates to the investigation; and
 - (c) use any data storage, processing or retrieval device or system used at or available to the place in order to produce, in readable form, any record, data or information that relates to the investigation.

Expert help

- (3) The investigator may be accompanied and assisted by persons who have special, expert or professional knowledge.

Obligation to produce and assist

- (4) If the investigator requires that a person produce or provide access to a record, thing, data or information, the person shall do so in the manner and within the period specified by the investigator and shall, if requested to do so, provide any assistance that is reasonably necessary to permit the investigator to understand the record, thing, data or information.

Restriction on dwellings

- (5) The investigator shall not enter, without the occupier's consent, a room that is actually used as a dwelling.

No force

- (6) The investigator shall not use force to enter and search a place.

Order

- (7) A justice of the peace or provincial judge may, on application by the investigator without notice, issue an order authorizing an investigator to enter and search a place referred to in subsection (1) and to exercise any of the powers set out in subsection (2), (3) or (4) if the justice of the peace or provincial judge is satisfied on information under oath or affirmation that there are reasonable grounds to suspect that,

- (a) the investigator has been prevented from exercising a right of entry to the place under subsection (1) or has been prevented from exercising a power under subsection (2), (3) or (4); or
- (b) the investigator will likely be prevented from exercising a right of entry to the place under subsection (1) or will likely be prevented from exercising a power under subsection (2), (3) or (4).

Conditions

- (8) The order may contain terms and conditions in addition to those provided for in subsection (7) as the justice of the peace or provincial judge considers advisable in the circumstances.

Expiry of order

- (9) The order is valid for 30 days or for such shorter period as may be specified in it.

Further orders

- (10) A justice of the peace or provincial judge may issue further orders under subsection (7).

Use of force

- (11) The investigator named in the order may use whatever force is reasonably necessary to execute the order and may call upon a police officer for assistance in executing the order.

Definition

- (12) In this section and in section 139,

“place” includes a building, a receptacle and a vehicle.

Investigation powers, other places

- 139** (1) A justice of the peace or a provincial judge may, on application by an investigator without notice, issue an order in relation to a place other than one to which section 138 applies authorizing the investigator to enter the place for which the order is issued and exercise any of the powers set out in the order in relation to a record, thing, data or information listed in the order, if the justice of the peace or provincial judge is satisfied by information under oath or affirmation that,

- (a) the investigation relates to the conduct of a person referred to in section 152;

- (b) there are reasonable grounds to believe that the conduct constitutes misconduct;
- (c) there are reasonable grounds to believe that there is in the place a record, thing, data or information that relates to the investigation; and
- (d) it is in the best interests of the administration of justice to issue the order having regard to all relevant matters, including the nature of the place sought to be entered.

Powers on entry

- (2) The order may authorize the investigator to exercise any or all of the powers set out in subsection 138 (2).

Dwelling

- (3) Despite subsection (1), the investigator shall not exercise the power under an order to enter a place or part of a place used as a dwelling, unless the justice of the peace or provincial judge is informed that the order is being sought to authorize entry into a dwelling and the order authorizes the entry into the dwelling.

Expert help

- (4) An order issued under subsection (1) may authorize persons who have special, expert or professional knowledge to accompany and assist the investigator in the execution of the order.

Conditions

- (5) The order may contain any additional terms and conditions that the justice of the peace or provincial judge considers advisable in the circumstances.

Time of execution

- (6) The order shall be executed between 6 a.m. and 9 p.m., unless it specifies otherwise.

Expiry of order

- (7) The order is valid for 30 days or for such shorter period as may be specified in it.

Further orders

- (8) A justice of the peace or provincial judge may issue further orders under subsection (1).

Use of force

- (9) The investigator named in the order may use whatever force is reasonably necessary to execute the order and may call upon a police officer for assistance in executing the order.

Records or things removed

- 140** (1) An investigator shall give a receipt to any person from whom a record or thing is removed in the exercise of a power under section 138 or 139.

Detention of record or thing

- (2) An investigator may, subject to subsection (3), detain any record or other thing removed by him or her under section 138 or 139.

Requirement to return

- (3) An investigator shall, within a reasonable time, return any record or other thing detained by him or her under subsection (2) to the person from whom it was removed, if the investigator is satisfied that it is no longer necessary to detain the record or thing for the purposes of the investigation or any proceeding arising from the investigation.

Removal under order

- (4) If an investigator removes a record or other thing under an order issued under subsection 139 (1), the investigator, or a person designated by him or her, shall, as soon as is reasonably possible,

- (a) bring the record or thing before a justice of the peace or provincial judge; or
- (b) make a report of the removal of the record or thing to a justice of the peace or provincial judge.

Same

- (5) If the justice of the peace or provincial judge is satisfied that the record or thing should be detained for the purposes of the investigation or proceeding arising from the investigation, he or she shall order that the record or thing be detained in the care of the investigator or a person designated by the investigator, or in the care of a person designated by the Complaints Director, until the conclusion of the investigation and any such proceeding; otherwise, the justice of the peace or provincial judge shall order that the record or thing be returned to the person from whom it was removed.

Order for examination, testing, etc.

(6) On the motion of a person having an interest in a record or thing detained under subsection (2) or (5), on notice to the person from whom the record or thing was removed, the investigator and any other person who has an apparent interest in the record or thing detained, a justice of the peace or provincial judge may make an order for the examination, testing, inspection or copying of the record or thing, and may specify in the order such conditions as are reasonably necessary in the circumstances.

Order for release

(7) On the motion of a person having an interest in a record or thing detained under subsection (2) or (5), on notice to the person from whom the record or thing was removed, the investigator and any other person who has an apparent interest in the record or thing detained, a justice of the peace or provincial judge may make an order for the release of the record or thing to the person from whom it was removed, if it appears that the record or thing is no longer necessary for the purposes of the investigation or any proceeding arising from the investigation.

Appeal of order by justice of the peace

(8) Subsection 159 (5) of the *Provincial Offences Act* applies, with necessary modifications, to an order made under subsection (6) or (7) of this section.

Copy admissible

141 A copy of a record or other thing that purports to be certified by an investigator as being a true copy of the original is, in the absence of proof to the contrary, admissible in evidence to the same extent as the original and has the same evidentiary value.

Liaisons**Police service**

142 (1) Every chief of police shall designate a senior officer within his or her police service to serve as a liaison to the Complaints Director on behalf of the police service.

Niagara Parks Commission

(2) The Niagara Parks Commission shall designate from within its workplace a senior representative to serve as a liaison to the Complaints Director on behalf of the Niagara Parks Commission.

Legislative Protective Service

(3) The Speaker of the Assembly shall designate a senior representative of the Office of the Assembly to serve as a liaison to the Complaints Director on behalf of the Legislative Protective Service branch of the Office of the Assembly.

Collection, use and disclosure of personal information**Collection**

143 (1) The Complaints Director may, in accordance with this section, collect prescribed personal information for the purposes of clause 132 (1) (c).

Limits on collection

(2) The Complaints Director shall not collect personal information under this section if other information will meet the purposes of clause 132 (1) (c), and shall not collect more personal information under this section than is reasonably necessary to meet those purposes.

Manner of collection

(3) Personal information shall only be collected under this section directly from the individual to whom the information relates, with the individual's consent.

Same

(4) Despite subsection (3), if the regulations so provide, the Complaints Director may, in the circumstances specified by the regulations, collect such prescribed personal information as the regulations specify in a manner other than directly from the individual to whom the information relates.

Notice of direct collection

(5) Before seeking an individual's consent to collect personal information directly from the individual to whom the information relates, the Complaints Director shall inform the individual of,

- (a) the authority for and purposes of the collection; and
- (b) the title and contact information, including an email address, of an employee in the Law Enforcement Complaints Agency who can answer the individual's questions about the collection.

Notice of indirect collection

(6) If the regulations referred to in subsection (4) provide for the collection of personal information in a manner other than directly from the individual to whom the information relates, the Complaints Director shall, before collecting personal information in such a manner, ensure that notice of the collection is published on the website of the Law Enforcement Complaints Agency containing,

- (a) a statement that the collection is authorized under subsection (1) and setting out the purposes of the collection;
- (b) the personal information and circumstances specified by the regulations referred to in subsection (4) for the purposes of the collection; and
- (c) the title and contact information, including an email address, of an employee in the Law Enforcement Complaints Agency who can answer an individual's questions about the collection.

De-identification

(7) Subject to the regulations, the Complaints Director shall, if the practices and procedures referred to in clause 5 (5) (b) have been put in place, provide the personal information collected under this section to the unit prescribed by the Minister under paragraph 4 of subsection 261 (2) for de-identification.

Limits on use

(8) The Complaints Director shall not use personal information collected under this section unless it has been de-identified under subsection (7), and may only use de-identified personal information for the purposes of clause 132 (1) (c).

Limit on access

(9) The Complaints Director shall limit access to the personal information collected under this section to employees in the Law Enforcement Complaints Agency and investigators, for the purposes of,

- (a) de-identifying the personal information under subsection (7); or
- (b) disclosing personal information under subsection (10).

Limits on disclosure

(10) The Complaints Director, an employee in the Law Enforcement Complaints Agency or an investigator may disclose personal information collected under this section only if,

- (a) the individual to whom the information relates has identified that information in particular and consented to its disclosure;
- (b) the disclosure is required by law, including as required under section 31 of the *Human Rights Code*;
- (c) subject to subsection (11), the disclosure is for the purpose of a proceeding or contemplated proceeding, the information relates to or is a matter in issue in the proceeding or contemplated proceeding, and,
 - (i) the Complaints Director is, or is expected to be, a party, or
 - (ii) any of the following is, or is expected to be, a witness:
 - (A) a current or former employee in the Law Enforcement Complaints Agency,
 - (B) a current or former investigator appointed under section 136, or
 - (C) a former employee in or investigator with the office of the Independent Police Review Director, before its continuance under this Part; or
- (d) the disclosure is to the Information and Privacy Commissioner.

Same

(11) The Complaints Director, an employee in the Law Enforcement Complaints Agency or an investigator appointed under section 136 shall not disclose personal information under clause (10) (c) of this section if other information will meet the purposes of the proceeding or contemplated proceeding, and shall not disclose more personal information under that clause than is reasonably necessary to meet those purposes.

Other Acts

(12) In the event of a conflict, this section prevails over sections 38, 39, 41, 42 and 43 of the *Freedom of Information and Protection of Privacy Act*, but the authority to collect, use and disclose personal information under this section is subject to any limits on collection, use or disclosure under any other law.

Rights of access and correction

(13) Nothing in this section limits the right of an individual under any Act to access and correct personal information about the individual.

Non-application

(14) For greater certainty, this section does not apply with respect to personal information lawfully collected by the Complaints Director for a purpose other than for the purposes of clause 132 (1) (c).

Annual report

144 (1) The Complaints Director shall prepare an annual report on the affairs of the Law Enforcement Complaints Agency, provide it to the Minister and publish it on the Internet in accordance with the regulations, if any.

Same

(2) The Complaints Director shall comply with such directives as may be issued by the Management Board of Cabinet with respect to,

- (a) the form and content of the annual report;
- (b) when to provide it to the Minister; and
- (c) when and how to make it available to the public in addition to publishing it as required under subsection (1).

Same

(3) The Complaints Director shall include such additional content in the annual report as the Minister may require.

Confidentiality

145 The Complaints Director and every deputy Complaints Director, employee in the Law Enforcement Complaints Agency, investigator appointed under section 136 and person exercising powers or performing duties at the direction of the Complaints Director shall preserve secrecy in respect of all information obtained by him or her in the course of exercising a power or performing a duty under this Act and shall not communicate any such information to any person except,

- (a) as may be required in connection with the administration of this Act or the regulations;
- (b) to his or her counsel;
- (c) as may be required for law enforcement purposes;
- (d) with the consent of the person, if any, to whom the information relates; or
- (e) where disclosure is otherwise required by law.

Protection from personal liability

146 (1) No action or other proceeding may be instituted against the Complaints Director, a deputy Complaints Director, an employee in the Law Enforcement Complaints Agency, an investigator appointed under section 136 or a person exercising powers or performing duties at the direction of the Complaints Director for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

Crown not relieved of liability

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) of this section does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which the Crown would otherwise be subject.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 146 (2) of the Act is amended by striking out "subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) of this section" and substituting "subsection 8 (3) of the *Crown Liability and Proceedings Act*, 2019, subsection (1)". (See: 2019, c. 7, Sched. 17, s. 52)

Section Amendments with date in force (d/m/y)

2019, c. 7, Sched. 17, s. 52 - not in force

PART IX ONTARIO POLICE ARBITRATION AND ADJUDICATION COMMISSION

Composition of Arbitration and Adjudication Commission, etc.

147 (1) The commission known as the Ontario Police Arbitration Commission is continued under the name of Ontario Police Arbitration and Adjudication Commission in English and the name of Commission ontarienne d'arbitrage et de décision pour la police in French.

Composition

(2) The composition of the Arbitration and Adjudication Commission shall be as provided in the regulations.

Employees

(3) Such employees as are considered necessary for the proper conduct of the affairs of the Arbitration and Adjudication Commission may be appointed under Part III of the *Public Service of Ontario Act, 2006*.

Responsibilities of Arbitration and Adjudication Commission

(4) The Arbitration and Adjudication Commission has the following responsibilities:

1. Selecting the members of and maintaining a register or registers of arbitrators who are available for appointment to conduct an arbitration under Part XIII.
2. Selecting the members of and maintaining a roster of adjudicators who are available for appointment to hold hearings under this Act.
3. Assisting arbitrators and adjudicators appointed by the Commission Chair by making administrative arrangements in connection with arbitrations and adjudication hearings, including setting dates for hearings.
4. Fixing the fees of arbitrators appointed by the Commission Chair under section 229.
5. Sponsoring the publication and distribution of information about agreements, arbitrations and awards under this Act.
6. Maintaining records of agreements, decisions and awards made under Part XIII.
7. Any other prescribed responsibilities.

Committees

(5) The Arbitration and Adjudication Commission shall, in accordance with the regulations, have,

- (a) a committee to select members of and maintain a register or registers, as prescribed, of arbitrators who are available for appointment to conduct an arbitration under Part XIII;
- (b) a committee to select members of and maintain a roster, as prescribed, of adjudicators who are available for appointment to hold hearings under this Act; and
- (c) such other committees as may be prescribed.

Composition of committee

(6) The committee described in clause (5) (a) must be composed of the Commission Chair and an equal number of persons representing police associations and police service boards.

Same

(7) The Arbitration and Adjudication Commission's committees shall have such responsibilities as are specified in the regulations.

Forms

(8) The Arbitration and Adjudication Commission may approve forms for the purposes of arbitrations and adjudication hearings under this Act and provide for or require their use.

Consultation before chair appointed

(9) No person shall be appointed as Commission Chair unless the Minister or his or her delegate has first consulted with or attempted to consult with,

- (a) bargaining agents that, in the opinion of the Minister or his or her delegate, are reasonably representative of the bargaining agents that represent members of police services;
- (b) employers or employers' organizations that, in the opinion of the Minister or his or her delegate, are reasonably representative of the employers of members of police services; and
- (c) any other entities that are prescribed.

Regulations

(10) The registers and the roster referred to in this section shall be established and maintained in accordance with the regulations, if any.

Commission Chair

148 (1) The Commission Chair shall appoint adjudicators, arbitrators and conciliation officers as required under this Act.

Publication of adjudication decisions

(2) The Commission Chair shall ensure that all of the decisions from adjudication hearings under this Act are published on the Internet in accordance with the regulations made by the Minister, if any.

Delegation

(3) The Commission Chair may, in writing, delegate any of his or her powers and duties under this Act or the regulations to an employee described in subsection 147 (3), subject to any limitations, conditions or requirements set out in the delegation.

Fees for adjudicators

149 The Minister may, by regulation, establish fees that may be charged in respect of adjudicators holding adjudication hearings under this Act, may determine the methods and times for payment of such fees, may determine by whom such fees may be charged and may determine the classes of persons to whom the fees may be charged.

Costs of adjudication hearings

150 The Arbitration and Adjudication Commission may, in accordance with the regulations made by the Minister, if any, charge a police service board that employs a police officer whose conduct is the subject of an adjudication hearing under this Act for the cost of holding the hearing.

PART X PUBLIC COMPLAINTS

Interpretation

Definitions

151 (1) In this Part,

“complainant” means a person who makes a complaint under subsection 154 (1); (“plaignant”)

“designated authority” means,

- (a) in relation to a police officer other than a police officer referred to in clause (b), (c) or (d), the chief of police of the police service of which the police officer is a member,
- (b) in relation to the Commissioner of the Ontario Provincial Police or deputy Commissioner, the Minister,
- (c) in relation to any other chief of police or deputy chief of police, the police service board that maintains the police service of which the chief or deputy chief is a member,
- (d) in relation to a police officer appointed under the *Interprovincial Policing Act, 2009*, the appointing official or local commander who appointed the police officer under that Act,
- (e) in relation to a special constable employed by the Niagara Parks Commission, the Niagara Parks Commission, and
- (f) in relation to a peace officer in the Legislative Protective Service, the Speaker of the Assembly; (“autorité désignée”)

“investigator” means an investigator under Part VIII; (“enquêteur”)

“peace officer in the Legislative Protective Service” means a person designated as a peace officer for the purposes of section 103 of the *Legislative Assembly Act*. (“agent de la paix du Service de protection de l’Assemblée législative”) 2019, c. 1, Sched. 1, s. 151 (1).

Note: On the day the definition of “peace officer in the Legislative Protective Service” in subsection 151 (1) of the Act comes into force, the definition of “peace officer in the Legislative Protective Service” in subsection 151 (1) of the Act is repealed and the following substituted: (See: 2020, c. 15, s. 19)

“peace officer in the Legislative Protective Service” means a person who is a peace officer under section 103.0.2 of the *Legislative Assembly Act*. (“agent de la paix du Service de protection de l’Assemblée législative”)

Interpretation, portion of a complaint

(2) This Part applies to a portion of a complaint as if it were a complaint, unless the context indicates otherwise. 2019, c. 1, Sched. 1, s. 151 (2).

Notice, etc. re special constables employed by Niagara Parks Commission

(3) A requirement under this Part to give a notice or other communication or document to the designated authority of a special constable employed by the Niagara Parks Commission shall be read as also requiring that the notice or other communication or document be given to the police service board or, if applicable, the Commissioner that appointed the special constable under section 92. 2019, c. 1, Sched. 1, s. 151 (3).

Section Amendments with date in force (d/m/y)

2020, c. 15, s. 19 - not in force

Application of Part

152 This Part applies with respect to the conduct of the following persons:

1. Police officers.

2. Special constables employed by the Niagara Parks Commission.
3. Peace officers in the Legislative Protective Service.

Determination of public interest in an investigation

153 For the purposes of a determination under this Part as to whether or not it is in the public interest to cause an investigation into the conduct of a person referred to in section 152 to be conducted or continued, the Complaints Director shall consider,

- (a) whether the conduct has been or is currently the subject of an investigation under this Act or a predecessor of this Act;
- (b) whether the conduct could be more appropriately dealt with, in whole or in part, under another Act or law or in another adequate forum;
- (c) whether a decision to not conduct or continue an investigation would negatively impact public confidence in policing; and
- (d) whether an investigation is reasonably practicable, having regard to the information or evidence available.

PUBLIC COMPLAINTS

Public complaints

154 (1) Any person may make a complaint to the Complaints Director about the conduct of a person referred to in section 152, subject to subsection (2).

Restriction

- (2) A complaint may not be made under subsection (1) by,
 - (a) the Minister;
 - (b) the Inspector General, a deputy Inspector General or an inspector appointed under section 111;
 - (c) a deputy Complaints Director, an employee in the Law Enforcement Complaints Agency or an investigator;
 - (d) the SIU Director or an employee or investigator in the Special Investigations Unit;
 - (e) a member of a police service, in respect of another member of that police service;
 - (f) a special constable employed by the Niagara Parks Commission, in respect of another special constable employed by the Niagara Parks Commission;
 - (g) the Niagara Parks Commission, in respect of a special constable employed by the Niagara Parks Commission;
 - (h) a member or employee of a police service board, in respect of a member of a police service maintained by the board;
 - (i) a person selected by the council of a municipality to advise another municipality's police service board under subsection 26 (2), in respect of a police officer who is a member of a police service maintained by that board; or
 - (j) any other person who may be prescribed.

Complainant on behalf of minor, incapable person

- (3) A complaint may be made under subsection (1) on behalf of,
 - (a) a person who is a minor, by the person's parent or guardian; and
 - (b) a person who is incapable as defined in the *Substitute Decisions Act, 1992* and who is not a minor, by his or her substitute decision-maker under that Act.

Complaint through agent

- (4) A complainant may act through an agent in respect of a complaint made under this Part.

Same

- (5) If a complainant acts through an agent, a requirement under this Part to give notice to the complainant may be met by giving notice to the complainant's agent.

Same, restricted persons

- (6) For greater certainty, a person referred to in subsection (2) may not make a complaint by acting through an agent under subsection (4).

Forwarding complaints to the Complaints Director

155 (1) If a person who may make a complaint under subsection 154 (1) to the Complaints Director instead makes the complaint to any of the following persons, that person shall forward the complaint to the Complaints Director, inform the

person who made the complaint that the complaint has been forwarded, and provide the person with information about the role of the Complaints Director:

1. The Minister.
2. The Inspector General, a deputy Inspector General or an inspector appointed under section 111.
3. The SIU Director or an employee or investigator in the Special Investigations Unit.
4. A chief of police.
5. A police service board or a member of a police service board.
6. An O.P.P. detachment board or a member of an O.P.P. detachment board.
7. A First Nation O.P.P. board or a member of a First Nation O.P.P. Board.
8. The Advisory Council or a member of the Advisory Council.
9. A special constable employer.
10. A prescribed entity.
11. A prescribed policing provider.
12. Any other person or entity prescribed by the Minister.

Same

(2) If a person who may make a complaint to the Complaints Director under subsection 154 (1) instead makes the complaint to a member of a police service other than a chief of police or to a special constable who is not a member of a police service, the member of a police service or special constable shall notify his or her chief of police or special constable employer of the complaint, and subsection (1) of this section applies, with necessary modifications, as if the complaint had been made to the chief of police or special constable employer.

Same

(3) The complaint of a person that is forwarded to the Complaints Director under this section is deemed for the purposes of this Part to have been made by the person directly to the Complaints Director.

Complaints from another province or territory

156 (1) If the Minister, a chief of police or a police service board receives a report from a person or body responsible for reviewing complaints about police officers in another province or territory about a complaint made against an Ontario police officer appointed to act as a police officer in that province or territory, the Minister, chief or board shall give the report to the Complaints Director.

Same

(2) A report described in subsection (1), whether received in accordance with that subsection or directly from the person or body that prepared the report, is, on its receipt, deemed to be a complaint made to the Complaints Director under this Part and, for the purpose, the person or entity that brought the complaint in the other province or territory and the person or body that prepared the report are deemed to be complainants.

Review of complaints

157 (1) The Complaints Director shall review every complaint made to the Complaints Director and determine whether the complaint is about the conduct of a person referred to in section 152.

If complaint re conduct

(2) If the Complaints Director determines that a complaint is about the conduct of a person referred to in section 152, the Complaints Director shall, subject to section 158, cause the complaint to be investigated and shall give notice of the investigation and of the substance of the complaint to the person who is the subject of the complaint and to any applicable designated authority.

Notice, exception

(3) The Complaints Director is not required to provide notice under subsection (2) to the person who is the subject of the complaint if, in the Complaints Director's opinion, doing so may prejudice the investigation.

If complaint falls outside mandate

(4) If the Complaints Director determines that a complaint is not about the conduct of a person referred to in section 152, the Complaints Director shall, subject to section 108, refuse to deal with the matter and promptly give notice of the refusal, with reasons, to the complainant, the person or entity that is the subject of the complaint and any applicable designated authority.

Refusal to investigate

- 158** (1) The Complaints Director may refuse to cause a complaint to be investigated if,
- (a) the facts on which the complaint is based occurred more than six months before the complaint is made;
 - (b) the complainant was not affected by the conduct of the person who is the subject of the complaint, as determined under subsection (3);
 - (c) the complaint alleges conduct that does not, on its face, constitute misconduct; or
 - (d) in the Complaints Director's opinion,
 - (i) the complaint is frivolous, vexatious or made in bad faith, or
 - (ii) having regard to all the circumstances, dealing with the complaint is not in the public interest.

Six-month period

- (2) For the purposes of clause (1) (a), the Complaints Director shall consider,
- (a) whether the complainant is a minor or under a disability within the meaning of the *Accessibility for Ontarians with Disabilities Act, 2005*, or is a complainant referred to in subsection 154 (3) acting on behalf of a minor or incapable person;
 - (b) whether the complainant is or was subject to a criminal investigation or proceeding in respect of the events underlying the complaint; and
 - (c) whether, having regard to all the circumstances, it is in the public interest for the complaint to be investigated.

Persons affected by conduct

- (3) For the purposes of clause (1) (b), only the following persons shall be considered to have been affected by the conduct:
- 1. A person at whom the conduct was directed.
 - 2. A person who saw or heard the conduct or its effects as a result of being physically present at the time and place that the conduct or its effects occurred.
 - 3. A person who,
 - i. was in a personal relationship with a person described in paragraph 1 at the time that the conduct occurred, and
 - ii. suffered loss, damage, distress, danger or inconvenience as a result of the conduct.

Same

- (4) In the case of a complainant referred to in subsection 154 (3) who is acting on behalf of a minor or incapable person, a determination under clause (1) (b) of this section shall be made in respect of the minor or incapable person rather than in respect of the complainant.

Notice

- (5) If the Complaints Director refuses to investigate a complaint in accordance with this section, he or she shall give notice of the refusal, with reasons, and of the substance of the complaint to,
- (a) the complainant;
 - (b) the person who is the subject of the complaint; and
 - (c) the applicable designated authority.

Investigation of complaints

- 159** (1) If the Complaints Director decides to cause a complaint to be investigated, the Complaints Director shall,
- (a) in the case of a complaint about the conduct of a police officer, other than a chief of police or deputy chief of police, direct the officer's chief of police or the chief of police of an unrelated police service to conduct the investigation;
 - (b) in the case of a complaint about the conduct of a special constable employed by the Niagara Parks Commission, direct a chief of police to conduct the investigation; or
 - (c) in any other case, retain the complaint and cause it to be investigated by an investigator.

Exception, retention of complaint

- (2) Despite clauses (1) (a) and (b), the Complaints Director may instead retain the complaint and cause it to be investigated by an investigator if, in his or her opinion, it is in the public interest to do so.

Exception, direction to chief of police

(3) Despite clause (1) (c), the Complaints Director may instead direct a chief of police to conduct the investigation, if, in the Complaints Director's opinion, it is necessary for the purposes of the investigation to obtain access to information that cannot be obtained through the use of the investigation powers under Part VIII.

Same

(4) The Complaints Director shall make a direction under subsection (3) with respect to a complaint about the conduct of a police officer to the chief of police of an unrelated police service, unless, in the Complaints Director's opinion, it is necessary for the purposes of the investigation to obtain access to information that cannot be obtained using the investigation powers of an unrelated police service.

Specific requirements

(5) In directing a chief of police to conduct an investigation, the Complaints Director may direct the chief of police to deal with the complaint as the Complaints Director specifies.

Duty to investigate

(6) A chief of police who receives a direction under this section shall promptly cause the complaint to be investigated, in accordance with any requirements specified by the Complaints Director under subsection (5).

Intervention by Complaints Director

(7) At any time after the Complaints Director directs a chief of police to conduct an investigation of a complaint and before its conclusion, the Complaints Director may,

- (a) direct the chief of police to deal with the complaint as the Complaints Director specifies;
- (b) direct the investigation of the complaint by a different chief of police, subject to subsection (4); or
- (c) cause the complaint to be investigated by an investigator instead.

Withdrawal of complaint

160 (1) Subject to subsection (2), a complainant may withdraw his or her complaint on notice to the Complaints Director.

Discontinuance

(2) If a complaint is withdrawn before the conclusion of any investigation into it, the Complaints Director shall cease to deal with the complaint, including causing any investigation into the complaint to be discontinued.

Continuance despite withdrawal

(3) Despite subsection (2), the Complaints Director may continue to deal with a complaint or continue its investigation despite its withdrawal if, in his or her opinion, it is in the public interest to do so.

Withdrawal following conclusion of investigation

(4) If a complaint is withdrawn after the conclusion of any investigation into it, this Part continues to apply despite the withdrawal, and, in the event of a determination under section 168 that the conduct of the person who was the subject of the investigation constitutes misconduct, any disciplinary or other measures required by that section to be imposed or taken under this Act or under another authority may be imposed or taken in respect of the person.

Notice

(5) The Complaints Director shall give notice of the withdrawal of a complaint under subsection (1) and, if applicable, notice of a decision to continue to deal with or investigate it despite its withdrawal under subsection (3), with reasons, to,

- (a) the complainant;
- (b) the person who is the subject of the complaint; and
- (c) the applicable designated authority.

Exception

(6) The Complaints Director is not required to give any notice under subsection (5) of a decision to continue to deal with or investigate a withdrawn complaint to the person who is the subject of the complaint if, in the Complaints Director's opinion, doing so may prejudice any such investigation.

No further notice to complainant

(7) Despite anything to the contrary under this Part, a complainant who withdraws a complaint is not entitled to any further notice or other communication respecting the withdrawn complaint, other than notice under subsection (5).

POWER TO INVESTIGATE ABSENT A COMPLAINT

Investigation in absence of complaint

161 (1) If conduct that may constitute misconduct by a person referred to in section 152 comes to the attention of the Complaints Director as a result of a complaint made under this Part but is not the subject of the complaint, or if such conduct otherwise comes to the Complaints Director's attention, the Complaints Director may, in the absence of a complaint under this Part, cause an investigation to be conducted into the conduct by an investigator if, in the Complaints Director's opinion, it is in the public interest to do so.

Same

(2) Subsection (1) includes conduct that comes to the attention of the Complaints Director by way of notice given by,

- (a) the SIU Director under section 35.1 of the *Special Investigations Unit Act, 2019*;
- (b) the Inspector General under clause 120 (2) (b) or 189 (2) (a) of this Act; or
- (c) a chief of police, a police service board or the Minister under section 197 of this Act.

Direction to chief of police

(3) The Complaints Director may direct a chief of police to conduct an investigation under subsection (1) if, in the Complaints Director's opinion, it is necessary for the purposes of the investigation to obtain access to information that cannot be obtained through the use of the investigation powers under Part VIII, and, for the purpose of an investigation directed under this subsection, subsections 159 (4) to (7) apply with necessary modifications.

Limitation

(4) This section does not apply with respect to conduct that occurred before the day this section came into force, unless the conduct is part of a series of acts or omissions that continues on or after that day.

Notices

Notice of decision

162 (1) In the case of conduct that comes to the attention of the Complaints Director by way of notice given by the Inspector General under clause 120 (2) (b) or 189 (2) (a) or by a chief of police, a police service board or the Minister under section 197, the Complaints Director shall inform the Inspector General, chief of police, police service board or Minister whether or not the Complaints Director will cause an investigation to be conducted into the conduct under section 161 and, if an investigation is not to be conducted, provide reasons for the decision.

Notice of investigation

(2) If the Complaints Director decides to cause an investigation to be conducted under section 161, the Complaints Director shall give notice of the decision, with reasons, and of the conduct to be investigated, to the person who is the subject of the investigation and to the applicable designated authority.

Exception

(3) The Complaints Director is not required to give notice under subsection (2) to the person who is the subject of the investigation if, in the Complaints Director's opinion, doing so may prejudice the investigation.

Notice of direction to chief of police

(4) The Complaints Director shall, in giving notice under subsection (1) or (2) that an investigation will be conducted, indicate whether the Complaints Director has directed a chief of police to conduct the investigation.

INVESTIGATIONS

Postponement due to criminal investigation or proceeding

163 (1) Subject to subsections (2) and (3), if a matter that is or may be the subject of an investigation under this Part is or becomes the subject of an investigation of an offence under a law of Canada, a province or a territory, or the prosecution of such an offence, the Complaints Director may postpone the commencement of the investigation under this Part, or suspend it, for as long as is necessary in the Complaints Director's opinion to avoid interfering with the investigation or prosecution.

Same, if Crown Attorney, prosecutor consulted re criminal investigation

(2) If a matter that is or may be the subject of an investigation under this Part is or becomes the subject of an investigation of an offence referred to in subsection (1) and a Crown Attorney or prosecutor has been consulted, the Complaints Director shall, if advised by the Crown Attorney or prosecutor to do so, postpone the commencement of the investigation under this Part, or suspend it, for as long as is necessary in the Crown Attorney or prosecutor's opinion to avoid interfering with the investigation.

Same, if Crown Attorney, prosecutor advises re prosecution

(3) If a matter that is or may be the subject of an investigation under this Part is or becomes the subject of the prosecution of an offence referred to in subsection (1), the Complaints Director shall consult a Crown Attorney or prosecutor and, if advised by a Crown Attorney or prosecutor to do so, postpone the commencement of the investigation under this Part, or suspend it, for as long as is necessary in the Crown Attorney's or prosecutor's opinion to avoid interfering with the prosecution.

Other stays

(4) This section applies in addition to the requirement in subsection 173 (3) to stay an investigation or review of a complaint if the subject matter of the complaint or investigation is the subject of an investigation by the SIU Director.

Discontinuance of investigation

164 (1) The Complaints Director may cause an investigation to be discontinued if he or she determines that, having regard to all the circumstances, continuing the investigation is not in the public interest.

Notice

(2) If the Complaints Director decides to cause an investigation to be discontinued, he or she shall give notice of the decision, with reasons, to,

- (a) the complainant, if any;
- (b) the person who is the subject of the investigation;
- (c) the applicable designated authority; and
- (d) if the investigation is being conducted by a chief of police who is not the applicable designated authority, the chief of police.

Investigation timing

165 (1) In conducting an investigation under this Part, the Complaints Director or chief of police, as the case may be, shall endeavour to ensure that the investigation is concluded within 120 days of its commencement, not including any period during which an investigation is postponed or suspended under section 163 or stayed under subsection 173 (3).

Status report

(2) If the timing requirements of subsection (1) are not met in respect of an investigation, the Complaints Director or chief of police shall, subject to subsection (3), give notice of the status of the investigation every 30 days following the expiry of the 120-day period until the investigation is concluded to,

- (a) the complainant, if any;
- (b) the person who is the subject of the investigation;
- (c) the applicable designated authority, unless he or she is conducting the investigation; and
- (d) the Complaints Director, if the investigation is being conducted by a chief of police.

Same, exception

(3) A requirement under subsection (2) to give notice does not apply if, in the opinion of the Complaints Director or chief of police, giving the notice may prejudice the investigation.

Investigation report

166 (1) On concluding an investigation, the Complaints Director or chief of police shall cause the investigation to be reported on in a written report, which shall, if the regulations made by the Minister so provide, contain the information prescribed by the Minister.

Non-application

(2) Subsection (1) does not apply to an investigation that is discontinued under section 160 or 164.

Chief's report to be given to Complaints Director

(3) A chief of police who writes a report under subsection (1) shall promptly give a copy of it to the Complaints Director.

Report copies to be given to others

(4) Subject to subsection (5), the Complaints Director or chief of police shall give a copy of the report to,

- (a) the complainant, if any;
- (b) the person who was the subject of the investigation; and
- (c) the applicable designated authority, unless he or she conducted the investigation.

Delay

(5) Subsection (4) does not apply until the Complaints Director determines that compliance with that subsection will not interfere with a criminal investigation or proceeding.

Same

(6) If the Complaints Director has been advised by a Crown Attorney that compliance with subsection (4) may, in the Crown Attorney's opinion, interfere with a criminal investigation or proceeding, subsection (4) does not apply until the Crown Attorney advises otherwise.

Determination of no misconduct

167 (1) If, after considering the report on the investigation, the Complaints Director or chief of police, as the case may be, does not have reasonable grounds to believe that the conduct of the person who was the subject of the investigation constitutes misconduct, he or she shall give written notice of the determination, with reasons, to,

- (a) the complainant, if any;
- (b) the person who was the subject of the investigation;
- (c) the applicable designated authority, unless he or she conducted the investigation; and
- (d) the Complaints Director, if the investigation was conducted by a chief of police.

Publication of summary

(2) The Complaints Director shall publish a de-identified summary of each determination made under this section on the Internet in accordance with the regulations made by the Minister, if any.

Complainant may require review if investigation by chief of police

(3) In the case of an investigation conducted by a chief of police, the complainant may, no later than 30 days after notice of the determination is given to the complainant, apply to the Complaints Director for a review of the determination, on notice to the chief of police and to the person who was the subject of the investigation.

Review by Complaints Director

(4) On receiving an application under subsection (3), the Complaints Director shall review the determination, taking into account any material provided by the complainant, the chief of police or the person who was the subject of the investigation, and shall endeavour to ensure to complete the review no later than 30 days after the application is made.

Powers on review

(5) On completion of the review, the Complaints Director may,

- (a) confirm the determination;
- (b) direct the chief of police who conducted the investigation to conduct a new investigation as the Complaints Director specifies;
- (c) direct the investigation of the matter by a different chief of police;
- (d) cause the matter to be investigated by an investigator; or
- (e) take or require to be taken any other action with respect to the matter that the Complaints Director considers necessary in the circumstances, subject to the regulations, if any.

Notice

(6) The Complaints Director shall give written notice of his or her decision and of the action taken by him or her under subsection (5) to the complainant, to the person who was the subject of the investigation, to the chief of police who conducted the investigation and, if applicable, to the chief of police referred to in clause (5) (c).

Determination of misconduct

168 (1) If, after considering the report on the investigation, the Complaints Director or chief of police, as the case may be, has reasonable grounds to believe that the conduct of the person who was the subject of the investigation constitutes misconduct, he or she shall give written notice of the determination, with reasons, to,

- (a) the complainant, if any;
- (b) the person who was the subject of the investigation;
- (c) the applicable designated authority, unless he or she conducted the investigation; and
- (d) the Complaints Director, if the investigation was conducted by a chief of police.

Discipline

- (2) On receipt of the notice of the determination, the designated authority shall,
- (a) determine whether disciplinary measures should be imposed and, if so, impose the appropriate disciplinary measures; and
 - (b) give written notice of the determination under clause (a) and of any disciplinary measures that were or are to be imposed to the complainant, if any, and the Complaints Director.

Same, special constables

(3) In the case of a special constable employed by the Niagara Parks Commission, the police service board or, if applicable, the Commissioner that appointed the special constable under section 92 shall, on receipt of the notice of the determination in accordance with subsection 151 (3), also take any other measures the board or Commissioner considers appropriate and give written notice of any such measures to the complainant, if any, and the Complaints Director.

Where hearing required

(4) If the Complaints Director gives notice of a determination of misconduct in respect of a police officer and believes that demotion or termination would be the appropriate disciplinary measure in relation to the misconduct, the Complaints Director may direct the designated authority to apply under section 202 for a hearing of the matter by an adjudicator.

Exception, referral to extra-provincial complaints body

(5) Despite subsection (1), in the case of a police officer appointed under the *Interprovincial Policing Act, 2009*, the Complaints Director shall instead refer the matter, together with a copy of the report on the investigation and any other information related to the investigation that he or she considers appropriate, to the person or body that is responsible for complaints made against the police officer in the province or territory where he or she was employed as a police officer at the time of his or her appointment under that Act.

Notice

(6) The Complaints Director shall give notice of a referral under subsection (5) to the complainant, if any, the police officer, the applicable designated authority and the Minister.

Same

(7) In giving notice to the Minister under subsection (6), the Complaints Director shall include a copy of the report on the investigation.

OTHER MATTERS

Informal resolution

169 (1) At any time during an investigation under this Part, the designated authority of the person who is the subject of the investigation may attempt to resolve the matter informally.

Consent required

(2) Any resolution under subsection (1) is subject to the written consent of the complainant, if any, of the person who is the subject of the investigation and of the Complaints Director.

Revocation of consent

(3) The complainant or person who is the subject of the investigation may revoke a consent given for the purposes of subsection (2) by giving written notice of the revocation to the designated authority and to the Complaints Director no later than 12 business days after the day on which the consent was given.

Inadmissibility of statements

(4) No statement made during an attempt at informal resolution under this section is admissible in a civil proceeding, including in a hearing before an adjudicator under section 201 or 202, except with the consent of the person who made the statement.

Non-application

(5) This section does not apply in the case of a police officer appointed under the *Interprovincial Policing Act, 2009*.

Effect of resignation on complaint, investigation

170 (1) If a person who is the subject of a complaint or investigation under this Part resigns before a report respecting an investigation into the person's conduct is given to the person's designated authority under clause 166 (4) (c), no further action shall be taken under this Part after the date of resignation.

Notice

(2) The person's designated authority shall promptly give written notice of the person's resignation to,

- (a) the complainant, if any;
- (b) the Complaints Director; and
- (c) if the person is the subject of an investigation conducted by a chief of police who is not the person's designated authority, that chief of police.

Exception

(3) Despite subsection (1), if, within five years of the date of resignation, the person who resigned is employed as a person referred to in section 152, the Complaints Director may continue to deal with the complaint or cause the investigation to be resumed, as the case may be, in accordance with the regulations, if any.

Exception, officers appointed under *Interprovincial Policing Act, 2009*

(4) This section does not apply to a police officer appointed under the *Interprovincial Policing Act, 2009*.

Termination of officers appointed under *Interprovincial Policing Act, 2009*

171 This Part applies to a police officer appointed under the *Interprovincial Policing Act, 2009* even after his or her appointment under that Act is terminated.

Costs of investigations

By investigator

172 (1) If the regulations made by the Minister so provide, the cost of an investigation conducted by an investigator about the conduct of a police officer, other than a police officer who is a member of the Ontario Provincial Police, or of a special constable employed by the Niagara Parks Commission, shall be paid in accordance with those regulations by the police service board that employs the police officer or the Niagara Parks Commission, as the case may be, except in such circumstances as those regulations may specify.

By chief of police other than Commissioner

(2) In the case of an investigation conducted by a chief of police, other than the Commissioner, about the conduct of a police officer in a different police service or a special constable employed by the Niagara Parks Commission, the chief of police may require that the cost of the investigation, as certified by the chief of police, be paid to the chief of police's police service board by,

- (a) the police service board that employs the police officer or the Niagara Parks Commission, as the case may be; or
- (b) in the case of an investigation about the conduct of a police officer who is a member of the Ontario Provincial Police, the Minister.

Debt due

(3) An amount owed to a police service board under subsection (2), if not collected by other means, may be recovered by a court action as a debt due to the police service board.

Dispute

(4) A debtor may dispute the amount claimed in a court action commenced under subsection (3), and the court shall determine the issue and make such order as it considers appropriate in the circumstances.

By Commissioner

(5) Section 65 applies to the cost of an investigation conducted by the Commissioner under this Part.

Special Investigations Unit

Notice by Director

173 (1) If, on reviewing a complaint or at any time during an investigation under this Part, the Complaints Director determines that the subject matter of the complaint or investigation may constitute a matter that may be investigated by the SIU Director under the *Special Investigations Unit Act, 2019*, the Complaints Director shall notify the SIU Director and shall give notice of the fact to,

- (a) the complainant, if any;
- (b) the person who is the subject of the complaint or investigation; and
- (c) the applicable designated authority.

Exception

(2) A requirement to give notice under clause (1) (a), (b) or (c) does not apply if, in the Complaints Director's opinion, giving the notice may prejudice an investigation under this Part or under the *Special Investigations Unit Act, 2019*.

Stay of investigation under this Part

(3) Subject to subsection (6), if the Complaints Director notifies the SIU Director under subsection (1), or otherwise becomes aware that the subject matter of a complaint or investigation under this Part is the subject of an investigation by the SIU Director, the Complaints Director shall cause no further steps to be taken under this Part with respect to the complaint or investigation until the occurrence of one of the following:

1. A determination by the SIU Director that the SIU Director shall not investigate the matter.
2. If the matter is investigated by the SIU Director and does not result in the laying of charges against the person who is the subject of the complaint or investigation under this Part, the conclusion of the SIU Director's investigation.
3. If charges are laid against the person who is the subject of the complaint or investigation under this Part as a result of an investigation by the SIU Director into the matter, the final disposition of the charges.

Access to Agency files

(4) The Complaints Director shall, on the request of the SIU Director, make the files of the Law Enforcement Complaints Agency respecting a complaint or investigation under this Part available to the SIU Director, other than any document, information or other thing that the SIU Director would not be entitled to obtain or have access to under the *Special Investigations Unit Act, 2019*, including any statement made by a subject official within the meaning of that Act in an investigation under this Part.

Notice to individual not required

(5) Subsection 39 (2) of the *Freedom of Information and Protection of Privacy Act* does not apply to subsection (4) of this section.

Continuance with SIU Director consent

(6) The Complaints Director may, subject to the consent of the SIU Director, continue to deal with a complaint or continue its investigation under this Part in the circumstances described in subsection (3), subject to any conditions or restrictions that the SIU Director may specify.

Limit on access to Agency files

(7) If a complaint or investigation continues under subsection (6), subsection (4) ceases to apply and the Complaints Director shall not make the files available to the SIU Director.

Notice to Inspector General

174 (1) The Complaints Director shall notify the Inspector General of any matter referred to in subsection 106 (1) or 107 (1) that is raised in a complaint or during an investigation under this Part.

Same

(2) If, on reviewing a complaint or at any time during an investigation under this Part, the Complaints Director determines that the conduct of the person who is the subject of the complaint or investigation may constitute criminal conduct that may not be investigated by the SIU Director under the *Special Investigations Unit Act, 2019*, the Complaints Director may notify the Inspector General of the conduct.

Duty of chief of police to notify Complaints Director

175 For the purposes of sections 173 and 174, if a chief of police determines that the subject matter of an investigation conducted by the chief of police may constitute a matter that may be investigated by the SIU Director under the *Special Investigations Unit Act, 2019* or a matter referred to in subsection 106 (1) or 107 (1), the chief of police shall promptly notify the Complaints Director.

Notice to extra-provincial commander

176 An appointing official or local commander who receives a notice and any related information from the Complaints Director under this Part respecting a police officer appointed under the *Interprovincial Policing Act, 2009* shall promptly forward a copy of the notice and any documentation to the police officer's extra-provincial commander.

Public statements by Complaints Director

177 The Complaints Director may issue public statements respecting an ongoing investigation under this Part, if,

- (a) the statement is aimed at preserving public confidence; and
- (b) the benefit of preserving public confidence clearly outweighs any detriment to the integrity of the investigation.

Duty to comply

178 (1) The following persons shall, immediately or as otherwise specified under this Part, comply with a reasonable direction or request received from a person conducting an investigation under this Part, unless it is unlawful or impracticable to do so:

1. A person referred to in section 152.
2. A designated authority.
3. Any person over whom a designated authority has authority, including any employees.
4. Any other person who may be prescribed.

Notification

(2) The Complaints Director shall immediately advise a person referred to in section 152 and his or her designated authority respecting a failure of the person to comply with subsection (1) of this section and, in doing so, shall inform each of them of the penalty to which a person is liable under section 180 on conviction of a failure to comply.

Prohibitions

179 (1) No person shall harass, coerce or intimidate, or attempt to harass, coerce or intimidate, any other person in relation to a complaint made or investigation conducted under this Part.

Same

(2) No person shall intentionally hinder or obstruct, or attempt to hinder or obstruct, a person conducting an investigation under this Part in the performance of his or her duties under this Part, or furnish him or her with false information.

Offences and penalty

180 (1) An individual who fails to comply with subsection 178 (1), or who contravenes subsection 179 (1) or (2), is guilty of an offence and on conviction is liable,

- (a) in the case of a first offence, to a fine of not more than \$5,000, to imprisonment for a term of not more than one year, or to both; or
- (b) in the case of a second or subsequent offence, to a fine of not more than \$10,000, to imprisonment for a term of not more than one year, or to both.

Same

(2) A person other than an individual that fails to comply with subsection 178 (1), or that contravenes subsection 179 (1) or (2), is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Protection from giving testimony

181 (1) The Complaints Director, a deputy Complaints Director, an employee in the Law Enforcement Complaints Agency, a person who conducts an investigation under this Part or a person exercising powers or performing duties at the direction of the Complaints Director shall not be required to give testimony in a civil proceeding, other than a proceeding under Part XII with respect to information obtained by him or her in the course of exercising a power or performing a duty under this Act.

Inadmissibility of documents

(2) A document prepared under this Act by the Complaints Director, a deputy Complaints Director, an employee in the Law Enforcement Complaints Agency, a person who conducts an investigation under this Part or a person exercising powers or performing duties at the direction of the Complaints Director is not admissible in a civil proceeding, other than a proceeding or a judicial review of a decision made under Part XII.

PART XI RIGHT TO REPORT MISCONDUCT

APPLICATION

Disclosure despite conflict with other Acts

182 (1) Subject to subsection (2), a right under this Part to make a disclosure prevails over anything provided under any other Act, or otherwise at law, that prohibits the disclosure.

Restriction on disclosure

(2) Nothing in this Part authorizes a disclosure of anything that would be inadmissible in a court by reason of any privilege under the law of evidence.

Same

(3) Nothing in this Part shall be interpreted to limit any right that a person to whom this Part applies may have under any other Act, or otherwise at law, to disclose information about misconduct.

DISCLOSURE PROCEDURES

Disclosure procedures

Chief of police

183 (1) Every chief of police shall establish written procedures regarding the disclosure of misconduct that is alleged to have been engaged in by members of its police service, other than by the chief of police or deputy chief of police.

Police service board

(2) Every police service board shall establish written procedures regarding the disclosure of misconduct that is alleged to have been engaged in by the chief of police or deputy chief of police of the police service.

Minister

(3) The Minister shall establish written procedures regarding the disclosure of misconduct that is alleged to have been engaged in by the Commissioner or a deputy Commissioner.

Special constable employers

(4) Every special constable employer shall establish written procedures regarding the disclosure of misconduct that is alleged to have been engaged in by a special constable employed by the employer.

Contents of procedures

- (5) Without limiting the generality of subsections (1), (2), (3) and (4), the procedures under those subsections shall,
- (a) address how a member or former member of the police service, or an employee or former employee of the special constable employer, may make disclosures of misconduct, including giving directions as to the persons to whom disclosures may be made;
 - (b) establish procedures to protect the identities of persons involved in the disclosure process, including persons who make disclosures, witnesses and persons alleged to be responsible for misconduct; and
 - (c) provide for exceptions to be made to procedures described in clause (b) where the interests of fairness require that a person's identity be disclosed to one or more persons.

Members of police service to be informed

(6) Every chief of police shall ensure that members of the police service are familiar with the procedures referred to in subsection (1), (2) or (3), as applicable, and the protections from reprisals for disclosing misconduct.

Employees of special constable employer to be informed

(7) Every special constable employer shall ensure that his or her employees are familiar with the procedures referred to in subsection (4) and the protections from reprisals for disclosing misconduct.

Reporting of misconduct

184 (1) If a member or former member of a police service has reason to believe that another member of the police service has engaged in conduct that constitutes misconduct, he or she may disclose the misconduct in accordance with the applicable procedure established under subsection 183 (1), (2) or (3).

Special constable

(2) If a special constable employed by, or formerly employed by, a special constable employer has reason to believe that another special constable employed by the special constable employer has engaged in conduct that constitutes misconduct, he or she may disclose the misconduct in accordance with the applicable procedure established under subsection 183 (4).

DISCLOSURE TO THE INSPECTOR GENERAL

Disclosure to Inspector General

185 A member of a police service or a special constable employed by a special constable employer may disclose misconduct to the Inspector General if,

- (a) the member or special constable has reason to believe that it would not be appropriate to disclose the misconduct in accordance with the procedures established under section 183;
- (b) the member or special constable has already disclosed the misconduct in accordance with the procedures established under section 183 and has concerns that the matter is not being dealt with appropriately; or
- (c) the applicable procedure has not been established under section 183.

Disclosure to SIU Director

186 If the Inspector General receives a disclosure of misconduct that contains an allegation of an incident that a designated authority would have a duty to report under section 16 of the *Special Investigations Unit Act, 2019*, the Inspector General

shall notify the SIU Director of the allegation unless the Inspector General believes that the SIU Director has already been notified.

Initial assessment by Inspector General

187 (1) The Inspector General shall refuse to deal with a disclosure of misconduct, or a portion of it, under section 185 if one or more of the following circumstances apply:

1. The subject matter of the disclosure is being dealt with by another person or body as a matter of law enforcement or in accordance with a procedure established under this or any other Act.
2. The subject matter of the disclosure is an employment or labour relations matter that could be dealt with through a dispute resolution mechanism, including a grievance procedure, established under this or any other Act, under a collective agreement or under an agreement of another kind.
3. The disclosure is frivolous, vexatious or made in bad faith.
4. There has been a substantial delay between the disclosure and the incidents that are the subject matter of the disclosure.
5. Any other prescribed circumstances exist.
6. There is a valid reason, other than a circumstance described in paragraphs 1 to 5, for not dealing with the disclosure.

Inform discloser

(2) If the Inspector General refuses to deal with a disclosure of misconduct, or a portion of it, he or she shall so inform the person who made the disclosure and may provide reasons for the refusal.

Allegation of criminal conduct

188 If the Inspector General receives a disclosure of misconduct under section 185 and does not refuse to deal with it under section 187, or if the Complaints Director provides the Inspector General with notice of potential criminal conduct, the Inspector General shall refer the matter to an unrelated police service if he or she reasonably believes that,

- (a) the alleged events may constitute a criminal offence; and
- (b) the matter has not already been investigated by an unrelated police service or the Special Investigations Unit.

Dealing with disclosure of misconduct

189 (1) This section applies where the Inspector General receives a disclosure of misconduct under section 185 and does not refuse to deal with the disclosure under section 187, even if a referral has been made under section 188.

Same

(2) The Inspector General shall,

- (a) if the misconduct is alleged to have been committed by a person referred to in section 152, provide the Complaints Director with,
 - (i) a written summary of the disclosure, and
 - (ii) any other information that the Inspector General has received in relation to the matter that the Inspector General believes may assist in dealing with the matter; or
- (b) in any other case, deal with the matter as if it were a complaint made under subsection 107 (1) including, if appropriate, by appointing an inspector to exercise the powers of an inspector under Part VII.

Inform discloser

(3) If the Inspector General receives notice from the Complaints Director that the Director refuses to investigate a disclosure of misconduct, the Inspector General shall so inform the person who made the disclosure.

PROTECTION FROM REPRISALS

No reprisals

190 (1) No person shall take a reprisal against a member of a police service or special constable employed by a special constable employer because he or she has,

- (a) sought advice about making a disclosure about misconduct in accordance with this Part;
- (b) made a disclosure about misconduct in accordance with this Part;
- (c) co-operated in an investigation or other process related to a disclosure of misconduct made in accordance with this Part; or

- (d) sought enforcement of this Part.

Same

(2) For the purposes of subsection (1), a reprisal is any measure taken against a member of a police service or special constable employed by a special constable employer that adversely affects his or her employment or appointment and includes but is not limited to,

- (a) terminating or threatening to terminate the person's employment or appointment;
- (b) disciplining or suspending or threatening to discipline or suspend the person;
- (c) imposing or threatening to impose a penalty related to the employment or appointment of the person; or
- (d) intimidating or coercing the person in relation to his or her employment or appointment.

Complaint about reprisal

191 (1) A member or former member of a police service or special constable employed or formerly employed by a special constable employer may complain under this section that he or she has suffered a reprisal prohibited by section 190 by a police service board, a member of a police service, a special constable employer or a person acting on behalf of one of those.

Request to determine matter

(2) The member, former member, special constable or former special constable may either have the matter dealt with by final and binding settlement by arbitration under a collective agreement, if any, or apply to the Commission Chair to appoint an arbitrator to decide the matter.

Parties

(3) The member, former member, special constable or former special constable and the person or entity complained of are the parties to the arbitration.

Order

(4) If the arbitrator determines that a reprisal has been taken in contravention of section 190, the arbitrator may make an order that it considers just and reasonable in the circumstances directing the police service board, member of the police service or special constable employer, or person acting on behalf of one of those, to do or refrain from doing anything in relation to the contravention.

Same

(5) Without limiting the generality of subsection (4), an order under that subsection may direct that the person or entity do one or more of the following:

- 1. Cease doing an act or acts complained of under subsection (1).
- 2. Take steps to rectify harm related to a complaint under subsection (1).
- 3. Reinstate the employment of a person whose employment was terminated or reappoint a person whose appointment was terminated.
- 4. Compensate the person for loss of any remuneration, including benefits.

Same

(6) An arbitrator may not make an order under subsection (4) for punitive damages or for costs.

Burden of proof

(7) In an arbitration under this section, the burden of proof that the police service board, member of the police service or special constable employer, or person acting on behalf of one of those, did not act contrary to section 190 lies on the police service board, member of the police service, special constable employer or person acting on behalf of one of those.

**PART XII
DISCIPLINE AND TERMINATION**

NON-APPLICATION

Non-application

192 This Part does not apply to police officers appointed under the *Interprovincial Policing Act, 2009*.

Agreements

193 Nothing in this Part affects agreements between police service boards and police officers or police associations, or agreements made under the *Ontario Provincial Police Collective Bargaining Act, 2006*, that permit penalties or actions in addition to those set out in this Part if the police officer in question consents.

PROCEDURES

Assessment and discipline procedures

- 194** (1) Every chief of police shall establish written procedures for,
- (a) the assessment of the work performance of members of the police service; and
 - (b) the imposition of disciplinary measures on members of the police service.

Procedures to be made available

- (2) The chief of police shall make the procedures available to the members of the police service and any police associations representing those members.

MISCONDUCT

Misconduct

- 195** A police officer or special constable engages in conduct that constitutes misconduct if he or she,
- (a) contravenes their applicable prescribed code of conduct;
 - (b) contravenes section 129, 179 or 196;
 - (c) knowingly fails to respond to an inspector's reasonable inquiries as required under section 116;
 - (d) knowingly fails to comply with a direction or request as required under section 31 of the *Special Investigations Unit Act, 2019* or section 178 of this Act; or
 - (e) knowingly fails to comply with a requirement to notify the SIU Director as required under section 16 of the *Special Investigations Unit Act, 2019*.

Inducing misconduct and withholding services

- 196** (1) No person shall,
- (a) induce or attempt to induce a member of a police service to withhold his or her services; or
 - (b) induce or attempt to induce a police officer or special constable to engage in conduct that constitutes misconduct.

Withholding services

- (2) No member of a police service shall withhold his or her services.

Offence

- (3) An individual who contravenes subsection (1) or (2) is guilty of an offence and on conviction is liable,
- (a) in the case of a first offence, to a fine of not more than \$5,000, to an imprisonment for a term of not more than one year, or to both; or
 - (b) in the case of a second or subsequent offence, to a fine of not more than \$10,000, to an imprisonment for a term of not more than one year, or to both.

Same

- (4) A person other than an individual that contravenes subsection (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

MANDATORY NOTICE OF MISCONDUCT

Duty to provide notice to Complaints Director

- 197** (1) If a chief of police becomes aware that a member of his or her police service who is a police officer, other than a deputy chief of police, may have engaged in conduct that constitutes misconduct, whether during the conduct of an investigation or otherwise, the chief shall, in prescribed circumstances, provide notice of the misconduct to the Complaints Director.

Duty, police service board

- (2) If a police service board becomes aware that a chief of police or deputy chief of police of a police service maintained by the board may have engaged in conduct that constitutes misconduct, whether during the conduct of an investigation or otherwise, the board shall, in prescribed circumstances, provide notice of the misconduct to the Complaints Director.

Duty, Minister

- (3) If the Minister becomes aware that the Commissioner or a deputy Commissioner may have engaged in conduct that constitutes misconduct, whether during the conduct of an investigation or otherwise, the Minister shall, in prescribed circumstances, provide notice of the misconduct to the Complaints Director.

INVESTIGATIONS

Investigation by chief of police

198 (1) A chief of police may conduct an investigation in order to determine if a police officer who is a member of the chief's police service, other than a deputy chief of police, has engaged in conduct that constitutes misconduct or unsatisfactory work performance.

Request to investigate

(2) The chief of police may request that the chief of police of another police service cause a member of that police service to investigate a police officer for the purposes set out in subsection (1) and report back on their findings.

Outside investigation

(3) The chief of police may request that a person who is not a member of a police service investigate a police officer for the purposes set out in subsection (1) and report back on their findings if the chief of police determines that it is necessary to have such a person conduct the investigation, including if it is necessary to obtain special expertise or to ensure public confidence in the investigation.

Exception

(4) The chief of police may not make a request under subsection (3) to the Complaints Director.

Notice

(5) A chief of police who conducts an investigation under this section shall promptly give notice of the substance of the reason for the investigation to the police officer unless, in the chief of police's opinion, to do so might prejudice an investigation under this section or under Part X, an investigation of an offence under a law of Canada, a province or a territory or the prosecution of such an offence.

Written report

(6) Once an investigation under this section is concluded, the person conducting the investigation shall prepare a written report summarizing its findings and shall provide a copy of the report to the investigated officer unless, in the chief of police's opinion, to do so might prejudice an investigation or prosecution described in subsection (5).

Chief of police or deputy chief of police

(7) A police service board may conduct an investigation in order to determine if a chief of police or deputy chief of police of a police service maintained by the police service board has engaged in conduct that constitutes misconduct or unsatisfactory work performance, and subsections (1) to (6) apply to the investigation with necessary modifications.

Commissioner or deputy Commissioner

(8) The Minister may conduct an investigation in order to determine if the Commissioner or a deputy Commissioner has engaged in conduct that constitutes misconduct or unsatisfactory work performance, and subsections (1) to (6) apply to the investigation with necessary modifications.

Investigation timing

(9) The chief of police, police service board or Minister conducting an investigation under this section shall endeavour to ensure that the investigation is concluded within 120 days, not including any period during which an investigation may not take place as a result of section 208.

Status report

(10) If the timing requirements of subsection (9) are not met in respect of an investigation, the chief of police, police service board or Minister, as applicable, shall give notice of the status of the investigation to the person being investigated every 30 days until the investigation is concluded unless, in the opinion of the chief, board or Minister, doing so might prejudice the investigation.

Postponement due to criminal investigation or proceeding

199 (1) Subject to subsections (2) and (3), if a matter that is or may be the subject of an investigation under this Part is or becomes the subject of an investigation of an offence under a law of Canada, a province or a territory, or the prosecution of such an offence, the chief of police, police service board or Minister, as applicable, may postpone the commencement of the investigation under this Part, or suspend it, for as long as is necessary in the chief's, board's or Minister's opinion to avoid interfering with the investigation or prosecution.

Same, if Crown Attorney, prosecutor consulted re criminal investigation

(2) If a matter that is or may be the subject of an investigation under this Part is or becomes the subject of an investigation of an offence referred to in subsection (1) and a Crown Attorney or prosecutor has been consulted, the chief of police, police service board or Minister, as applicable, shall, if advised by the Crown Attorney or prosecutor to do so, postpone the

commencement of the investigation under this Part, or suspend it, for as long as is necessary in the Crown Attorney's or prosecutor's opinion to avoid interfering with the investigation.

Same, if Crown Attorney, prosecutor advises re prosecution

(3) If a matter that is or may be the subject of an investigation under this Part is or becomes the subject of the prosecution of an offence referred to in subsection (1), the chief of police, police service board or Minister, as applicable, shall consult a Crown Attorney or prosecutor and, if advised by a Crown Attorney or prosecutor to do so, postpone the commencement of the investigation under this Part, or suspend it, for as long as is necessary in the Crown Attorney's or prosecutor's opinion to avoid interfering with the prosecution.

DISCIPLINARY MEASURES AND HEARINGS

Suspension, forfeit of pay, reprimands, etc.

200 (1) Subject to section 201, a chief of police may impose any combination of the following disciplinary measures on a police officer who is a member of the chief's police service, other than a deputy chief of police, if an investigation under section 198 or an investigation under Part X gives the chief of police reasonable grounds to believe that the officer has engaged in conduct that constitutes misconduct or unsatisfactory work performance:

1. Suspend the police officer without pay for a period not exceeding 30 days or 240 hours, as the case may be.
2. Direct that the police officer forfeit not more than three days or 24 hours pay, as the case may be.
3. Direct that the police officer forfeit not more than 20 days or 160 hours off, as the case may be.
4. Reprimand the police officer.
5. Direct that the police officer undergo specified counselling, treatment or training.
6. Direct that the police officer participate in a specified program or activity.

Restriction on use of combined disciplinary measures

(2) The disciplinary measures described in paragraphs 1, 2 and 3 of subsection (1) may not be imposed in combination with each other in respect of a single act or omission that constitutes misconduct or unsatisfactory work performance.

Same, prescribed limitations

(3) The disciplinary measures described in paragraphs 1, 2 and 3 of subsection (1) may not be imposed in combination with each other if the combined effect of the disciplinary measures would exceed the prescribed limitations, if any.

Calculation

(4) A disciplinary measure imposed under paragraph 1, 2 or 3 of subsection (1) shall be calculated in terms of days if the police officer normally works eight hours a day or less and in terms of hours if he or she normally works more than eight hours a day.

Same

(5) A police officer may elect to satisfy a disciplinary measure imposed under paragraph 2 of subsection (1) by working without pay or by applying the amount to his or her vacation or overtime credits or entitlements.

Same, chief of police or deputy chief of police

(6) Subject to section 201, a police service board may impose disciplinary measures on a chief of police or deputy chief of police of a police service maintained by the police service board for misconduct or unsatisfactory work performance and subsections (1) to (5) of this section apply with respect to those measures, with necessary modifications.

Same, Commissioner or deputy Commissioner

(7) Subject to section 201, the Minister, with the approval of the Lieutenant Governor in Council, may impose disciplinary measures on the Commissioner or a deputy Commissioner for misconduct or unsatisfactory work performance and subsections (1) to (5) of this section apply with respect to those measures, with necessary modifications.

Procedure and hearings

201 (1) Before imposing a disciplinary measure or combination of disciplinary measures under section 200, the chief of police, police service board or Minister, as the case may be, shall,

- (a) provide relevant information concerning the matter, including the written report prepared under subsection 198 (6), and written notice stating the reasons for imposing the disciplinary measure or measures to the police officer;
- (b) give the police officer an opportunity to respond to the notice provided under clause (a), orally or in writing, as the chief of police, police service board or Minister may determine; and
- (c) comply with any other prescribed requirements.

Unsatisfactory work performance — additional requirements

(2) Before a chief of police provides notice under clause (1) (a) of a proposed disciplinary measure or combination of disciplinary measures on a police officer for engaging in conduct that constitutes unsatisfactory work performance, the chief shall,

- (a) ensure that the police officer's work performance has been assessed in accordance with the procedures established under subsection 194 (1);
- (b) advise the police officer of how he or she may improve his or her work performance;
- (c) accommodate the police officer's needs in accordance with the *Human Rights Code* if the police officer has a disability, within the meaning of the *Human Rights Code*, that requires accommodation;
- (d) recommend that the police officer seek remedial assistance, such as counselling, training or participation in a program or activity, if the chief of police is of the opinion that it would improve the police officer's work performance; and
- (e) give the police officer a reasonable opportunity to improve his or her work performance.

Consent to disciplinary measure

(3) The police officer referred to in clause (1) (a) may consent to the imposition of the disciplinary measure or measures after receiving the notice and, if such a consent is given, the police officer shall not request a hearing regarding the disciplinary measure or measures under subsection (6).

Consent may be withdrawn

(4) A police officer who consents to the imposition of a disciplinary measure or measures under subsection (3) may revoke the consent by notifying the chief of police in writing of the revocation no later than 12 business days after the day on which the consent is given.

Exercise of powers

(5) After complying with subsection (1) and, if applicable, subsection (2) and considering the response, if any, the chief of police, police service board or Minister may implement the proposed disciplinary measure or measures, impose a lesser disciplinary measure or combination of disciplinary measures or rescind their intention to implement the disciplinary measure or measures.

Hearing

(6) The police officer who is the subject of the disciplinary measure or measures may apply to the Commission Chair to appoint an adjudicator to hold a hearing regarding the disciplinary measure or measures within 30 days after the day the application was received.

Notice

(7) A police officer who makes an application under subsection (6) shall provide written notice of the application to the chief of police, police service board or Minister that imposed the disciplinary measure or measures.

Parties

(8) The police officer and the chief of police, police service board or Minister, as applicable, are the parties to the hearing.

Settlement

(9) The police officer and the chief of police, police service board or Minister, as applicable, may settle the matter and the settlement may provide for the imposition of a disciplinary measure or any combination of disciplinary measures that a chief of police could impose under subsection 200 (1).

Order

(10) If, following the hearing, the adjudicator determines that the chief of police, police service board or Minister, as applicable, has proven on clear and convincing evidence that the conduct of the police officer constitutes misconduct or unsatisfactory work performance, the adjudicator may impose a disciplinary measure or any combination of disciplinary measures that a chief of police could impose under subsection 200 (1).

If overturned

(11) If the adjudicator overturns the decision to impose the disciplinary measure or measures, the chief of police, police service board or Minister, as applicable, shall ensure that the police officer is reimbursed for any lost pay, days or hours, as applicable.

Termination of employment or demotion

202 (1) If an investigation under section 198 or an investigation under Part X gives the chief of police reasonable grounds to believe that a police officer who is a member of the chief's police service, other than a deputy chief of police, has engaged in conduct that constitutes misconduct or unsatisfactory work performance and that the appropriate disciplinary measure is

demotion or termination of the officer's employment, the chief of police may apply to the Commission Chair to appoint an adjudicator to hold a hearing on the matter.

Unsatisfactory work performance — additional requirements

(2) Before applying to the Commission Chair under subsection (1) for demotion or termination of a police officer's employment for engaging in conduct that constitutes unsatisfactory work performance, a chief of police shall,

- (a) ensure that the police officer's work performance has been assessed in accordance with the procedures established under subsection 194 (1);
- (b) advise the police officer of how he or she may improve his or her work performance;
- (c) accommodate the police officer's needs in accordance with the *Human Rights Code* if the police officer has a disability, within the meaning of the *Human Rights Code*, that requires accommodation;
- (d) recommend that the police officer seek remedial assistance, such as counselling, training or participation in a program or activity, if the chief of police is of the opinion that it would improve the police officer's work performance; and
- (e) give the police officer a reasonable opportunity to improve his or her work performance.

Notice

(3) The chief of police shall provide written notice of the application to,

- (a) the police officer;
- (b) if the application arose as a result of an investigation under Part X, the complainant in that investigation, if any; and
- (c) if the Complaints Director directed the chief of police to initiate the hearing, the Complaints Director.

Parties

(4) The parties to the hearing are,

- (a) the chief of police;
- (b) the police officer; and
- (c) if the application arose as a result of an investigation under Part X, the complainant in that investigation, if any.

Same, Complaints Director

(5) The Complaints Director is a party to the hearing if the Complaints Director directed the chief of police to initiate the hearing and the chief of police declines to participate as a party.

Examination of evidence

(6) Before the hearing, the police officer and the complainant, if any, shall each be given an opportunity to examine any physical or documentary evidence that will be produced or any report whose contents will be given in evidence.

Same

(7) For greater certainty, subsection (6) applies in addition to any applicable disclosure requirement in the procedures or rules for adjudication hearings established by the regulations, in the *Statutory Powers Procedure Act* or otherwise at law.

Settlement

(8) The parties to the hearing may settle the matter, and the settlement may provide for the imposition of a disciplinary measure or measures set out in subsection (9) or (10).

Order

(9) If, following the hearing, the adjudicator determines that it has been proven on clear and convincing evidence that the police officer has engaged in conduct that constitutes misconduct or unsatisfactory work performance and that demotion or termination of the officer's employment is an appropriate response, the adjudicator may make an order to impose one of the following disciplinary measures:

1. Terminate the police officer's employment.
2. Direct that the police officer's employment be terminated in seven days unless he or she resigns before that time.
3. Demote the police officer, specifying the manner and period of the demotion.

Same

(10) If, following the hearing, the adjudicator determines that the chief of police has proven on clear and convincing evidence that the police officer has engaged in conduct that constitutes misconduct or unsatisfactory work performance but that demotion or termination of the officer's employment is not an appropriate response, the adjudicator may make an order

to impose a disciplinary measure or any combination of disciplinary measures that a chief of police could impose under subsection 200 (1).

Chief of police or deputy chief of police

(11) A police service board may apply to the Commission Chair to appoint an adjudicator to hold a hearing respecting the demotion or termination of employment of a chief of police or deputy chief of police of a police service maintained by the police service board.

Same

(12) Subsections (1), (3) and (6) to (10) apply, with necessary modifications, to an application under subsection (11) and the police service board and the chief of police or deputy chief of police, as applicable, are parties to the hearing.

Commissioner or deputy Commissioner

(13) The Minister, with the approval of the Lieutenant Governor in Council, may apply to the Commission Chair to appoint an adjudicator to hold a hearing respecting the demotion or termination of employment of the Commissioner or a deputy Commissioner.

Same

(14) Subsections (1), (3) and (6) to (10) apply, with necessary modifications, to an application under subsection (13) and the Minister and the Commissioner or deputy Commissioner, as applicable, are parties to the hearing.

Postponement due to criminal investigation or proceeding

203 (1) Subject to subsections (2) and (3), if a matter that is or may be the subject of an adjudication hearing under this Part is or becomes the subject of an investigation of an offence under a law of Canada, a province or a territory, or the prosecution of such an offence, the adjudicator may postpone the commencement of the adjudication hearing under this Part, or suspend it, for as long as is necessary in the adjudicator's opinion to avoid interfering with the investigation or prosecution.

Same, if Crown Attorney, prosecutor consulted re criminal investigation

(2) If a matter that is or may be the subject of an adjudication hearing under this Part is or becomes the subject of an investigation of an offence referred to in subsection (1) and a Crown Attorney or prosecutor has been consulted, the adjudicator shall, if advised by the Crown Attorney or prosecutor to do so, postpone the commencement of the adjudication hearing under this Part, or suspend it, for as long as is necessary in the adjudicator's or prosecutor's opinion to avoid interfering with the investigation.

Same, if Crown Attorney, prosecutor advises re prosecution

(3) If a matter that is or may be the subject of an adjudication hearing under this Part is or becomes the subject of the prosecution of an offence referred to in subsection (1), the adjudicator shall, if advised by a Crown Attorney or prosecutor to do so, postpone the commencement of the adjudication hearing under this Part, or suspend it, for as long as is necessary in the Crown Attorney's or prosecutor's opinion to avoid interfering with the prosecution.

Appeal to Divisional Court

204 (1) A party to a hearing held under section 202 may appeal the adjudicator's decision to the Divisional Court within 30 days of receiving notice of the adjudicator's decision.

Notice to Minister

(2) The appealing party shall provide notice of the appeal to the Minister, and the Minister is entitled to be heard, by counsel or otherwise, on the argument of the appeal.

Not question of fact alone

(3) An appeal shall not be made on a question of fact alone.

Agreement to disciplinary measure after public complaint

205 (1) A chief of police may impose a disciplinary measure or any combination of disciplinary measures that a chief of police could impose under subsection 200 (1) on a police officer who is a member of the chief's police service, other than a deputy chief of police, if the officer consents to the imposition of the measure or measures as a result of an informal resolution under section 169.

Procedure, etc. inapplicable

(2) For greater certainty, section 201, including, in particular, the ability to withdraw consent to a disciplinary measure or measures and the availability of an adjudication hearing, does not apply to a disciplinary measure or measures imposed under subsection (1) of this section.

Effect of resignation on investigation, discipline

206 (1) If a police officer who is the subject of an investigation under section 198 or a process to impose a disciplinary measure or combination of disciplinary measures under section 200 or 202 resigns before a disciplinary measure is imposed, no further action shall be taken under this Part after the date of resignation.

Exception

(2) Despite subsection (1), if, within five years of the date of resignation, the person who resigned is appointed as a police officer, the chief of police may continue to investigate the officer's conduct or take steps to impose a disciplinary measure or combination of disciplinary measures under section 200 or 202, as the case may be, in accordance with the regulations, if any.

Chief of police actions

(3) In the circumstances described in subsection (2), if the police officer is newly appointed as a police officer with a police service other than the police service from which he or she resigned,

- (a) the chief of police of the new police service may take any action under subsection (2) in respect of the officer's past conduct as if the chief were the chief of police of the officer's old police service; and
- (b) the chief of police of the old police service shall provide the chief of police of the new police service with any notes or other records pertaining to the prior investigation or disciplinary process.

Expunging of record

207 (1) A chief of police shall expunge an entry made in a police officer's employment record respecting a disciplinary measure two years after the day the disciplinary measure was imposed if,

- (a) the disciplinary measure is described in paragraph 4, 5 or 6 of subsection 200 (1); and
- (b) no other entries relating to disciplinary measures were entered into the officer's employment record in the two years before the day the disciplinary measure was imposed and in the two years following that day.

Same

(2) A chief of police shall expunge an entry made in a police officer's employment record respecting a disciplinary measure five years after the day the disciplinary measure was imposed if,

- (a) the disciplinary measure is described in paragraph 1, 2 or 3 of subsection 200 (1); and
- (b) no other entries relating to disciplinary measures were entered into the officer's employment record in the five years before the day the disciplinary measure was imposed and in the five years following that day.

Extension

(3) Despite subsection (2), a record described in that subsection may be retained in a police officer's employment record for longer than five years if,

- (a) the officer consents to the extension; or
- (b) the adjudicator orders that the five-year period be extended after conducting a hearing under this section.

Hearing

(4) A chief of police may apply to the Commission Chair to appoint an adjudicator to hold a hearing within 30 days after the day the application was received to determine whether a record should be retained for longer than five years as a result of extenuating circumstances.

Notice

(5) A chief of police who makes an application under subsection (4) shall provide written notice of the application to the police officer who is the subject of the record.

Parties

(6) The chief of police and the police officer are the parties to the hearing.

Settlement

(7) The chief of police and the police officer may settle the matter, and the settlement may provide for the extension of the retention period.

Order

(8) After the hearing, the adjudicator may order that the record be retained for such longer period as the adjudicator may specify if he or she determines that extenuating circumstances warrant such an extension.

Chiefs of police and deputy chiefs of police

(9) Subsections (1) to (8) apply with necessary modifications to chiefs of police and deputy chiefs of police in respect of entries made in their employment record respecting a disciplinary measure, with,

- (a) the Minister exercising the powers and duties set out in subsections (1) to (8) in respect of the Commissioner and any deputy Commissioners; and
- (b) the applicable police service board exercising the powers and duties set out in subsections (1) to (8) in respect of any other chief of police or deputy chief of police.

Entries under predecessor act

(10) An entry made in a police officer's employment record under the *Police Services Act* may be expunged in accordance with subsection 76 (13) or 77 (10) of that Act as those provisions read before they were repealed.

LIMITATION ON INVESTIGATIONS AND DISCIPLINE

Limitation on investigations, discipline

208 (1) During the time period described in subsection (3) relating to a matter, the chief of police and the police service board or Minister, as applicable, shall not,

- (a) investigate the matter under section 198, subject to subsection (4) of this section;
- (b) impose disciplinary measures with respect to the matter under section 200; or
- (c) make an application with respect to the matter under section 202.

Same

(2) During the time period described in subsection (3), an adjudicator may continue to hear a proceeding that was commenced under section 202 if the hearing commenced before the beginning of that time period.

Time period

(3) The time periods referred to in subsections (1) and (2) are the following:

- 1. The time period,
 - i. beginning on the day the SIU Director causes the matter to be investigated, and
 - ii. ending on the day the SIU Director, or the chief of police to whom the matter is referred under subsection 36 (1) of the *Special Investigations Unit Act, 2019*, determines that charges will or will not be laid with respect to the matter.
- 2. The time period,
 - i. beginning on the day the chief of police, police service board or Minister,
 - A. provides notice of the misconduct to the Complaints Director under section 197, or
 - B. receives notice from the Complaints Director indicating that he or she will investigate the matter, and
 - ii. ending on the day the chief of police, police service board or Minister receives notice,
 - A. if applicable, that the Complaints Director will not cause an investigation of the matter to be conducted,
 - B. that the investigation will be discontinued, or
 - C. that the Complaints Director does not have reasonable grounds to believe that the conduct of the police officer or special constable who was the subject of the investigation constitutes misconduct.

Exception

(4) Subsection (1) does not limit,

- (a) an investigation conducted for the purpose of determining whether to impose a suspension without pay under section 210; or
- (b) the imposition of a suspension without pay under section 210.

SUSPENSION

Suspension with pay

209 (1) A chief of police may suspend a police officer who is a member of the chief's police service, other than a deputy chief of police, with pay, pending the final disposition of a proceeding, if any, under this Part if the member is suspected of misconduct.

Other required duties

(2) The suspension may require the police officer to perform duties that do not involve exercising the powers or performing the duties of a police officer.

Notice

(3) The chief of police shall provide written notice of the suspension to the police officer.

Revocation

(4) The chief of police may revoke the suspension at any time.

Re-imposition

(5) The chief of police may re-impose a suspension, repeatedly if necessary, as the chief of police considers appropriate, as long as the circumstances set out in subsection (1) continue to be met.

Earnings from other employment

(6) If a police officer is suspended with pay and is not performing duties as required by the chief of police under subsection (2), the pay for the period of suspension shall be reduced by the amount that he or she earns from other employment during that period.

Exception

(7) Subsection (6) does not apply to earnings from other employment that was commenced before the period of suspension, but does apply to earnings generated from additional hours that the employee works during the period of suspension.

Chief of police or deputy chief of police

(8) A police service board may suspend a chief of police or deputy chief of police of a police service maintained by the police service board with pay, and subsections (1) to (7) apply to the suspension with necessary modifications.

Commissioner or deputy Commissioner

(9) The Minister may suspend the Commissioner or a deputy Commissioner with pay, and subsections (1) to (7) apply to the suspension with necessary modifications.

Suspension without pay

210 (1) A chief of police may suspend a police officer who is a member of the chief's police service, other than a deputy chief of police, without pay in the following circumstances:

1. The police officer is convicted of an offence and sentenced to a term of imprisonment, even if the conviction or sentence is under appeal.
2. The police officer is in custody or is subject to conditions of judicial interim release, or conditions imposed under section 499 of the *Criminal Code* (Canada), that substantially interfere with the officer's ability to perform the duties of a police officer.
3. The police officer is charged with a serious offence, as defined in the regulations, under a law of Canada and,
 - i. the alleged offence was not committed in relation to the performance of the officer's duties,
 - ii. the chief of police,
 - A. has commenced proceedings to seek termination of the police officer's employment in relation to the events that led to the charges, or
 - B. has given notice to the police officer that the chief intends to commence such proceedings but is prevented from doing so by section 208,
 - iii. the likely outcome of the proceedings would be, if the events leading to the charges were proven, that the officer's employment would be terminated or the officer would resign in accordance with an order under paragraph 2 of subsection 202 (9), and
 - iv. a failure to suspend the officer without pay would bring discredit to the reputation of the police service.

Unable to perform duties

(2) A suspension without pay imposed under paragraph 2 of subsection (1) on a police officer who is subject to conditions of judicial interim release ends once the conditions no longer substantially interfere with the police officer's ability to perform the duties of a police officer.

Non-application of other sections

(3) Sections 200 and 201 do not apply to a suspension without pay imposed under this section.

Notice

(4) The chief of police shall provide written notice of a suspension without pay to the police officer.

Revocation

(5) The chief of police may revoke a suspension without pay at any time.

Disentitlement to pay

(6) During a suspension without pay, the police officer is not entitled to receive a salary, wages or other remuneration, but is entitled to continue to receive any benefits the officer would otherwise be entitled to.

Pension credit

(7) Despite subsection (6), a police officer shall not accrue pension credit in respect of the period of suspension without pay.

Restrictions on activities that constitute full-time employment do not apply

(8) Clause 89 (1) (c) does not apply to the police officer during the period of suspension without pay.

Effective date of suspension without pay

(9) A suspension without pay takes effect as follows:

1. For a suspension under paragraph 1 or 2 of subsection (1), on the day the chief of police provides written notice of the suspension to the police officer.
2. For a suspension under paragraph 3 of subsection (1), on the 60th day after the day the chief of police provides written notice of the suspension to the police officer.

Hearing for certain suspensions without pay

(10) A police officer may apply to the Commission Chair to appoint an adjudicator to hold a hearing respecting a decision to impose a suspension without pay if,

- (a) the suspension is under paragraph 2 of subsection (1) and the officer believes that the conditions of judicial interim release to which he or she is subject do not substantially interfere with his or her ability to perform the duties of a police officer; or
- (b) the suspension is under paragraph 3 of subsection (1).

Same

(11) The police officer must apply to the Commission Chair, and provide written notice of the application to the chief of police who imposed the suspension, before the 60th day after the day the chief of police provided written notice of the suspension to the police officer.

Same

(12) A hearing under subsection (10) shall be dealt with on an expedited basis.

Parties

(13) The police officer and the chief of police are the parties to the hearing.

Some hearings operate as stays

(14) If a decision to impose a suspension without pay under paragraph 3 of subsection (1) is the subject of a hearing before an adjudicator, the suspension is stayed from the time notice of the hearing is served on the chief of police until the adjudicator disposes of the matter.

Order

(15) The adjudicator may make an order overturning the decision to impose the suspension without pay if the adjudicator determines that the police officer has shown, on the balance of probabilities, that the criteria for imposing the suspension without pay were not met.

Delay

(16) If the adjudicator finds that a party is acting in bad faith for the purpose of delaying the hearing, the adjudicator may make such interim orders as the adjudicator considers appropriate, including imposing a suspension without pay for such time as the adjudicator believes appropriate to remedy the delay.

If overturned

(17) If the adjudicator overturns the decision to suspend the police officer without pay,

- (a) the suspension without pay ends;

(b) the chief of police shall ensure that the police officer is compensated for the loss of any salary, wages or other remuneration; and

(c) subsection (7) shall not apply with respect to any period of the suspension.

Chief of police or deputy chief of police

(18) A police service board may suspend a chief of police or deputy chief of police of a police service maintained by the police service board without pay.

Same

(19) Subsections (1) to (12) and (14) to (17) apply, with necessary modifications, to a suspension under subsection (18) and the police service board and the chief of police or deputy chief of police, as applicable, are parties to any hearing under subsection (10).

Commissioner or deputy Commissioner

(20) The Minister, with the approval of the Lieutenant Governor in Council, may suspend the Commissioner or a deputy Commissioner without pay.

Same

(21) Subsections (1) to (12) and (14) to (17) apply, with necessary modifications, to a suspension under subsection (20) and the Minister and the Commissioner or deputy Commissioner, as applicable, are parties to any hearing under subsection (10).

Powers on suspension

211 While suspended with or without pay, a police officer shall not exercise any of the powers vested in him or her as a police officer or wear or use clothing or equipment that was issued to him or her in that capacity.

TERMINATION OF PROBATIONARY POLICE OFFICERS

Termination of employment during probationary period

212 (1) A police service board may terminate a police officer's employment at any time during his or her probationary period on the recommendation of the chief of police but, before doing so, shall give the police officer written notice with respect to the reasons for the termination and an opportunity to respond orally or in writing, as the board may determine.

Non-application

(2) Section 202 does not apply to the termination of the employment of a police officer during his or her probationary period.

EVIDENCE

Police officer not required to give evidence

213 (1) A police officer who is the subject of the hearing under this Part shall not be required to give evidence at the hearing.

Testimony in civil proceedings

(2) No person shall be required to testify in a civil proceeding with regard to information obtained in the course of an investigation conducted under this Part, except at,

(a) a hearing held under this Part; or

(b) a discipline proceeding for a member of a police service who is not a police officer.

Admissibility of documents

(3) No document prepared as the result of an investigation conducted under this Part is admissible in a civil proceeding, except at a proceeding set out in subsection (2).

Inadmissibility of statements

(4) No statement made during an attempt to resolve a dispute regarding disciplinary matters that may result from an investigation conducted under this Part is admissible in a civil proceeding, including a hearing held under this Part, except with the consent of the person who made the statement.

Inspector's evidence

(5) No information gathered by an inspector in the course of an inspection under this Act is admissible in a hearing held under this Part, except a hearing at which the misconduct alleged relates to an interaction with the inspector, including a contravention of section 129.

MISCELLANEOUS

Application of Statutory Powers Procedure Act

214 Despite section 32 of the *Statutory Powers Procedure Act*, any provision of this Act or the regulations relating to a proceeding before an adjudicator appointed by the Commission Chair prevails over any provision of that Act to the extent of the conflict.

Reports of chief of police

215 (1) A chief of police shall report, in accordance with the regulations, to the police service board or, in the case of the Commissioner, to the Minister regarding the aggregate disciplinary measures the chief has taken under this Part.

Publication and forwarding of reports

(2) The board and Minister shall,

- (a) publish the reports on the Internet in accordance with the regulations made by the Minister, if any; and
- (b) forward the reports to the Complaints Director.

TRANSITION

Transition

216 (1) Complaints made under the *Police Services Act* and hearings under section 25 of that Act shall continue to be dealt with in accordance with the provisions of that Act as they read immediately before the Act's repeal with necessary modifications, subject to subsections (3) to (6) and to such other modifications as may be set out in the regulations.

Previous event

(2) If a complaint about a policy of or service provided by a police service or the conduct of a police officer is made on or after the day the *Police Services Act* is repealed, but the event to which the complaint relates occurred before the repeal of that Act and the event does not form part of a series of events that continued on or after the day that Act is repealed, the complaint shall be dealt with in accordance with the provisions of that Act as they read immediately before the Act's repeal with necessary modifications, subject to subsections (3) to (6) and to such other modifications as may be set out in the regulations.

Complaints Director

(3) The Complaints Director shall exercise the powers and duties of the Independent Police Review Director in respect of the matters described in subsections (1) and (2).

Different appeal

(4) If subsection (1) or (2) would allow a person to appeal a matter to the Ontario Civilian Police Commission, the appeal shall instead be made to the Commission Chair, who shall appoint three adjudicators to exercise the powers and perform the duties of the Ontario Civilian Police Commission in the appeal, subject to such modifications as may be set out in the regulations.

Ontario Civilian Police Commission

(5) The Ontario Civilian Police Commission is continued, until the regulations provide for its dissolution, for the purposes of completing any hearings or appeals under section 25 or Part V of the *Police Services Act* that were initiated before the day the *Police Services Act* was repealed and that were not finally determined as of that day.

Testimony

(6) No person shall be required to testify in a civil proceeding with regard to information obtained in the course of an investigation under Part II or V of the *Police Services Act* as it read immediately before its repeal, except at,

- (a) a hearing under Part XII of this Act; or
- (b) a hearing or appeal dealt with in accordance with subsection (1) or (2) of this section.

Documents

(7) No document prepared in the course of dealing with a complaint under Part V of the *Police Services Act* is admissible in a civil proceeding, except at,

- (a) a hearing under Part XII of this Act; or
- (b) a hearing or appeal held under Part V of the *Police Services Act* as the result of the application of subsection (1) or (2) of this section.

PART XIII LABOUR RELATIONS

DEFINITION AND APPLICATION

Definition, Part XIII

217 In this Part,

“senior officer” means a member of a police service who has the rank of inspector or higher or is employed in a supervisory or confidential capacity.

Non-employees of police service boards

218 (1) This Part does not apply to members of a police service who are not employees of a police service board.

Exception

(2) Despite subsection (1), section 221 applies to members of the Ontario Provincial Police.

Chief of police and deputy

(3) The working conditions and remuneration of the chief of police and any deputy chief of police of a police service shall be determined under clause 37 (1) (d) and not under this Part.

POLICE ASSOCIATIONS

Duty of fair representation

219 (1) A police association, so long as it continues to represent members of a police service under this Part, shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the members of the police service.

Appointment of conciliation officer

(2) If a member of a police association alleges that the police association has contravened subsection (1), the member may apply to the Commission Chair to appoint a conciliation officer to attempt to resolve the matter.

Conciliation procedure

(3) The conciliation shall be conducted in accordance with the procedure set out in subsections 228 (3) to (7), with necessary modifications.

Parties

(4) The member making the allegation, the police association and the police service are the parties to a conciliation or arbitration under this section.

Arbitration

(5) If matters remain in dispute after the conciliation, any party may give the Commission Chair and the other parties a written notice referring the matters to arbitration.

Arbitration procedure

(6) The arbitration shall be conducted in accordance with the procedure set out in subsections 229 (2) to (8), with necessary modifications.

MEMBERSHIP AND STATUS

Restriction on membership in police association

Application

220 (1) This section applies to the following members of a police service:

1. The chief financial officer, however that person is described.
2. The chief administrative officer, however that person is described.
3. The chief human resources executive, however that person is described.
4. The general counsel, however that person is described.
5. Any person employed in a confidential capacity in relation to labour relations.

Restriction

(2) A member of a police service described in subsection (1) shall not become or remain a member of a police association if his or her position would likely give rise to a conflict of interest in respect of labour relations matters.

Membership in trade union prohibited for certain members

221 A member of a police service shall not become or remain a member of a trade union or of an organization that is affiliated directly or indirectly with a trade union, unless the membership is required for secondary activities and the member notifies his or her chief of police of the membership.

Dispute re person's status

222 (1) A person may apply to the Commission Chair to appoint an arbitrator to decide any of the following disputes if the person's rights or obligations under this Part are affected by the subject matter of the dispute:

1. A dispute as to whether a person is subject to this Part by virtue of being a member of a police service who is an employee of a police service board.
2. A dispute as to whether a person is a senior officer.
3. A dispute as to whether a person is prohibited from being a member of a police association as a result of section 220.

Parties

(2) The parties to the arbitration include the police service board and any affected police associations.

Procedure

(3) The arbitration shall be conducted in accordance with the procedure set out in subsections 229 (2) to (8), with necessary modifications.

BARGAINING AND ARBITRATION

Separate bargaining, etc., separate categories

223 (1) If a majority of the members of a police service, or a police association that is entitled to give notices of desire to bargain, assigns the members of the police service to different categories for the purposes of this Part, bargaining, conciliation and arbitration shall be carried on as if each category were a separate police service.

Senior officers

(2) If at least 50 per cent of the senior officers of a police service belong to a police association composed only of senior officers, bargaining, conciliation and arbitration shall be carried on as if the senior officers were a separate police service.

Restriction

(3) If there is a dispute as to whether bargaining, conciliation and arbitration should be carried on with more than two categories within a police service (apart from senior officers), any affected person may apply to the Commission Chair to appoint an arbitrator to decide the matter.

Parties

(4) The parties to an arbitration under subsection (3) include the police service board and any affected police associations.

Procedure

(5) An arbitration under subsection (3) shall be conducted in accordance with the procedure set out in subsections 229 (2) to (8), with necessary modifications.

Notice of desire to bargain

224 (1) If no agreement exists, or at any time after 90 days before an agreement would expire but for section 234, a majority of the members of a police service may give the police service board notice in writing of their desire to bargain with a view to making an agreement, renewing the existing agreement, with or without modifications, or making a new agreement.

Bargaining

(2) Within 15 days after the notice of desire to bargain is given or within the longer period that the parties agree upon, the police service board shall meet with a bargaining committee of the members of the police service.

Same

(3) The parties shall bargain in good faith and make every reasonable effort to come to an agreement dealing with the remuneration, pensions, sick leave credit gratuities and grievance procedures of the members of the police service and, subject to section 231, their working conditions.

Filing of agreement

(4) The police service board shall promptly file a copy of any agreement with the Arbitration and Adjudication Commission.

Police association

(5) If at least 50 per cent of the members of the police service belong to a police association, it shall give the notice of desire to bargain.

Municipal plans, notice to Minister

(6) If the notice of desire to bargain involves pensions under a pension plan established or to be established under the *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be, it shall also be given to the Minister of Municipal Affairs and Housing, who may determine the maximum pension benefits that may be included in any agreement or award with respect to the pension plan.

Bargaining committee

225 (1) The members of the bargaining committee shall be members of the police service.

Legal counsel and advisors

(2) Legal counsel and advisors to the bargaining committee and to the police service board may participate in or conduct the bargaining sessions.

Police organization

(3) If the notice of desire to bargain is given by a police association that is affiliated with a police organization, or if at least 50 per cent of the members of the police service belong to a police organization, a member of the organization may attend the parties' bargaining sessions in an advisory capacity.

Appointment of conciliation officer

226 (1) The Commission Chair shall appoint a conciliation officer, at a party's request, if a notice of desire to bargain has been given.

Duty of conciliation officer

(2) The conciliation officer shall confer with the parties and endeavour to effect an agreement and shall, within 14 days after being appointed, make a written report of the results to the Commission Chair.

Extension of time

(3) The 14-day period may be extended if the parties agree or if the Commission Chair extends it on the advice of the conciliation officer that an agreement may be made within a reasonable time if the period is extended.

Report

(4) When the conciliation officer reports to the Commission Chair that an agreement has been reached or that an agreement cannot be reached, the Commission Chair shall promptly inform the parties of the report.

No arbitration until after conciliation

(5) Neither party shall give a notice requiring matters in dispute to be referred to arbitration under section 227 until a conciliation officer has been appointed, endeavoured to effect an agreement and reported to the Commission Chair and the Commission Chair has informed the parties of the conciliation officer's report.

Competency as a witness

(6) A conciliation officer appointed under subsection (1) is not a competent or compellable witness before a court or tribunal respecting any information or material furnished to or received by him or her while being involved in an endeavour under this section to effect an agreement.

Arbitration

227 (1) If matters remain in dispute after bargaining under section 224 and conciliation under section 226, a party may give the Commission Chair and the other party a written notice referring the matters to arbitration.

Composition of arbitration board

(2) The following rules apply to the composition of the arbitration board:

1. The parties shall determine whether it shall consist of one person or three persons. If they are unable to agree on this matter, or if they agree that the arbitration board shall consist of three persons but one of the parties then fails to appoint a person in accordance with the agreement, the arbitration board shall consist of one person.
2. If the arbitration board is to consist of one person, the parties shall appoint him or her jointly. If they are unable to agree on a joint appointment, the person shall be appointed by the Commission Chair.
3. If the arbitration board is to consist of three persons, the parties shall each appoint one person and shall jointly appoint a chair. If they are unable to agree on a joint appointment, the chair shall be appointed by the Commission Chair.
4. If the arbitration board consists of one person who was appointed by the Commission Chair, or if the arbitration board consists of three persons and the chair was appointed by the Commission Chair, the Commission Chair shall select the method of arbitration and shall advise the arbitration board of the selection. The method selected shall be mediation-arbitration unless the Commission Chair is of the view that another method is more appropriate. The method selected shall not be final offer selection without mediation and it shall not be mediation-final offer selection unless the

Commission Chair, in his or her sole discretion, selects that method because he or she is of the view that it is the most appropriate method having regard to the nature of the dispute. If the method selected is mediation-final offer selection, the chair of the arbitration board shall be the mediator or, if the arbitration board consists of one person, that person shall be the mediator.

When hearings commence

(3) The arbitration board shall hold the first hearing within 30 days after the chair is appointed or, if the arbitration board consists of one person, within 30 days after that person is appointed.

Exception

(4) If the method of arbitration selected by the Commission Chair is mediation-arbitration or mediation-final offer selection, the time limit set out in subsection (3) does not apply in respect of the first hearing but applies instead, with necessary modifications, in respect of the commencement of mediation.

Time for submission of information

(5) If the method of arbitration selected by the Commission Chair is mediation-arbitration or mediation-final offer selection, the chair of the arbitration board or, if the arbitration board consists of one person, that person may, after consulting with the parties, set a date after which a party may not submit information to the board unless,

- (a) the information was not available prior to the date;
- (b) the chair or, if the arbitration board consists of one person, that person permits the submission of the information; and
- (c) the other party is given an opportunity to make submissions concerning the information.

Hearing

(6) If the method of arbitration selected by the Commission Chair is conventional arbitration, the arbitration board shall hold a hearing, but the chair of the arbitration board or, if the arbitration board consists of one person, that person may impose limits on the submissions of the parties and the presentation of their cases.

Consolidation of disputes

(7) Disputes may be arbitrated together only if all the parties to the disputes agree.

Time for decision

(8) The arbitration board shall give a decision within 90 days after the chair is appointed or, if the arbitration board consists of one person, within 90 days after that person is appointed.

Extension

(9) The parties may agree to extend the time described in subsection (8), either before or after the time has passed.

Remuneration and expenses

(10) The remuneration and expenses of the members of an arbitration board shall be paid as follows:

- 1. A party shall pay the remuneration and expenses of a member appointed by or on behalf of the party.
- 2. Each party shall pay one-half of the chair's remuneration and expenses or, if the arbitration board consists of one person, one-half of that person's remuneration and expenses.

Representations by municipality

(11) The municipality may make representations before the arbitration board in an arbitration involving a municipal board if the municipality is authorized to do so by a resolution.

Representations by Minister and band council

(12) The Minister and the band council may make representations before the arbitration board in an arbitration involving a First Nation board.

Criteria

(13) In making a decision or award, the arbitration board shall take into consideration all factors it considers relevant, including the following criteria:

- 1. The employer's ability to pay in light of its fiscal situation.
- 2. The extent to which services may have to be reduced, in light of the decision or award, if current funding and taxation levels are not increased.
- 3. The economic situation in Ontario and, if applicable, in the municipality.

4. A comparison, as between the employees and other comparable employees in the public and private sectors, of the terms and conditions of employment and the nature of the work performed.
5. The employer's ability to attract and retain qualified employees.
6. The interest and welfare of the community served by the police service.
7. Any local factors affecting that community.

Restriction

(14) Nothing in subsection (13) affects the powers of the arbitration board.

Filing of award

(15) The arbitration board shall promptly file a copy of its decision or award with the Arbitration and Adjudication Commission.

Dispute, appointment of conciliation officer

228 (1) The Commission Chair shall appoint a conciliation officer, at a party's request, if a difference arises between the parties concerning an agreement or an arbitrator's decision or award made under this Part, or if it is alleged that an agreement or award has been violated.

Appointment of seized arbitrator

(2) If an arbitrator is seized of the matter to which the dispute relates, the Commission Chair may instead appoint that arbitrator to decide the matter, and subsections 229 (2) and (4) to (8) apply with necessary modifications as if the arbitrator were a one-person arbitration board.

Duty of conciliation officer

(3) The conciliation officer shall confer with the parties and endeavour to resolve the dispute and shall, within 14 days after being appointed, make a written report of the results to the Commission Chair.

Extension of time

(4) The 14-day period may be extended if the parties agree or if the Commission Chair extends it on the advice of the conciliation officer that the dispute may be resolved within a reasonable time if the period is extended.

Report

(5) When the conciliation officer reports to the Commission Chair that the dispute has been resolved or that it cannot be resolved by conciliation, the Commission Chair shall promptly inform the parties of the report.

No arbitration during conciliation

(6) Neither party shall give a notice referring the dispute to arbitration until the Commission Chair has informed the parties of the conciliation officer's report.

Competency as a witness

(7) A conciliation officer appointed under subsection (1) is not a competent or compellable witness before a court or tribunal respecting any information or material furnished to or received by him or her while being involved in an endeavour under this section to resolve a dispute.

Arbitration after conciliation fails

229 (1) If the conciliation officer reports that the dispute cannot be resolved by conciliation, either party may give the Commission Chair and the other party a written notice referring the dispute to arbitration.

Same

(2) The procedure provided by subsection (1) is available in addition to any grievance or arbitration procedure provided by the agreement, decision or award.

Composition of arbitration board

(3) The following rules apply to the composition of the arbitration board:

1. The parties shall determine whether it shall consist of one person or three persons. If they are unable to agree on this matter, or if they agree that the arbitration board shall consist of three persons but one of the parties then fails to appoint a person in accordance with the agreement, the arbitration board shall consist of one person.
2. If the arbitration board is to consist of one person, the parties shall appoint him or her jointly. If they are unable to agree on a joint appointment, the person shall be appointed by the Commission Chair.
3. If the arbitration board is to consist of three persons, the parties shall each appoint one person and shall jointly appoint a chair. If they are unable to agree on a joint appointment, the chair shall be appointed by the Commission Chair.

Time for arbitration

(4) The arbitration board shall commence the arbitration within 30 days after being appointed, in the case of a one-person board, or within 30 days after the appointment of the chair, in the case of a three-person board, and shall deliver a decision within a reasonable time.

Filing of decision

(5) The arbitration board shall promptly file a copy of its decision with the Arbitration and Adjudication Commission.

Costs and expenses

(6) The following rules apply with respect to the costs and expenses of the arbitration:

1. The Arbitration and Adjudication Commission shall pay the fees and any prescribed types of expenses of any person the Commission Chair appoints to the arbitration board.
2. Each party shall pay its own costs incurred in the arbitration, including the fees of any person it appoints to the arbitration board.
3. The parties shall share equally the costs and expenses for matters shared in common, including the fees of any person whom they jointly appoint to the arbitration board.

Enforcement

(7) After the day that is 30 days after the delivery of the decision or after the day that the decision provides for compliance, whichever is later, the arbitration board may, of its own motion, and shall, at a party's request, file a copy of the decision, in the form approved by the Minister, with the Superior Court of Justice.

Same

(8) The decision shall be entered in the same way as a judgment of the Superior Court of Justice and may be enforced as such.

Extension of time

230 The parties may agree to extend any period of time mentioned in this Part.

Restriction

231 Agreements and awards made under this Part do not affect the working conditions of the members of the police service insofar as those working conditions are determined by subsection 47 (3), sections 82 to 87, sections 89, 92, 93, 95 and 96 and Part XII (except as provided in section 193) and by the regulations.

Non-application of *Arbitration Act, 1991*

232 The *Arbitration Act, 1991* does not apply to arbitrations conducted under this Part.

Agreements, decisions and awards binding

233 Agreements, decisions and awards made under this Part bind the police service board and the members of the police service.

Duration of agreements, decisions and awards

234 (1) Agreements, decisions and awards remain in effect until the end of the year in which they come into effect and thereafter continue in effect until replaced.

Longer duration if parties agree

(2) The parties to an agreement may provide that the agreement and any decisions or awards made with respect to it shall remain in effect until the end of the year following the year in which they come into effect and thereafter shall continue in effect until replaced.

Provision for expenditures

235 (1) If, when the municipality is adopting its annual estimates, a notice of desire to bargain has been given but there is not yet an agreement, decision or award, the municipality shall make such provision for the payment of expenditures that will result from the expected agreement, decision or award as it considers adequate.

Coming into effect

(2) An agreement, decision or award comes into effect on the first day of the fiscal period in respect of which the municipality may make provision for it in its estimates, whether that day is before or after the agreement, decision or award is made.

Exception

(3) A provision of the agreement, decision or award that does not involve municipal expenditures may come into effect earlier than the day referred to in subsection (2).

Transition; continuation of proceedings

236 Any arbitration for which an arbitrator was appointed under the *Police Services Act* but that was not disposed of before the day that this section came into force shall continue under this Act.

INQUIRIES

Inquiry, alleged contravention

237 (1) The Commission Chair may authorize a conciliation officer to inquire into any complaint alleging a contravention of this Part.

Duties

(2) The conciliation officer shall inquire into the complaint and endeavour to effect a settlement of the matter complained of under subsection (1).

Appointment of arbitrator

(3) If the conciliation officer is unable to effect a settlement of the matter complained of under subsection (1) or if the Commission Chair in his or her discretion considers it advisable to dispense with the conciliation officer's inquiry, the chair may appoint an arbitrator to inquire into the complaint.

Arbitrator's decision

(4) If the arbitrator is satisfied that a person has acted contrary to this Part, the arbitrator shall determine what, if anything, the person shall do or refrain from doing with respect thereto and may, without limiting the generality of the foregoing and despite the provisions of any collective agreement, make one or more of the following orders:

1. An order directing a person to cease doing the act or acts complained of.
2. An order directing a person to rectify the act or acts complained of.

Filing in court

(5) Any person affected by the arbitrator's determination may file the determination, excluding the reasons, in the form approved by the Minister in the Superior Court of Justice, and it shall be entered in the same way as an order of that court and is enforceable as such.

Effect of settlement

(6) If a proceeding under this section has been settled, whether through the endeavours of the conciliation officer or otherwise, and the terms of the settlement have been put in writing and signed by the parties or their representatives, the settlement is binding upon the parties who have agreed to the settlement and shall be complied with according to its terms, and a complaint that a person who has agreed to the settlement has not complied with the terms of the settlement shall be deemed to be a complaint under subsection (1).

Competency as a witness

(7) A conciliation officer is not a competent or compellable witness before a court or tribunal respecting any information or material furnished to or received by him or her while being involved in an inquiry, or an endeavour to effect a settlement, under this section.

PART XIV TRANSFER OF ASSETS BETWEEN PENSION PLANS

Interpretation

238 (1) Words and expressions used in this Part have the same meaning as under the *Pension Benefits Act* unless the context requires otherwise.

Definitions

(2) In this Part,

“eligible police service employee” means an employee who is a member of a police service and who meets the requirements set out in section 241; (“employé d'un service de police admissible”)

“original pension plan” has the meaning set out in subsection 79.2 (1) of the *Pension Benefits Act*; (“premier régime de retraite”)

“successor pension plan” has the meaning set out in subsection 79.2 (1) of the *Pension Benefits Act*. (“régime de retraite subséquent”)

Agreement governing transfers

239 (1) The administrators of the Public Service Pension Plan and the Ontario Municipal Employees Retirement System may enter into one or more written agreements governing the transfer of assets between pension plans in any of the circumstances that are referred to in subsection 80 (2) or 81 (1) of the *Pension Benefits Act* in respect of eligible police service employees whose employment has been transferred between the Ontario Provincial Police and another police service.

Amount

(2) An agreement must set out the manner of determining the amount of assets to be transferred from an original pension plan to a successor pension plan in respect of the pension benefits and ancillary benefits of an eligible police service employee who consents to the transfer of assets.

Notice to employees

(3) An agreement must provide for the contents of the notice to be given to each eligible police service employee concerning the option of consenting to a transfer of assets in respect of his or her pension benefits and ancillary benefits under the original pension plan, and the notice must contain sufficient information to allow the employee to make an informed decision about whether to consent to the transfer.

Duty to file agreement

240 (1) If the administrators of the Public Service Pension Plan and the Ontario Municipal Employees Retirement System enter into an agreement under section 239, the administrators shall file it with the Superintendent of Financial Services.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 240 (1) of this Act is amended by striking out “Superintendent of Financial Services” at the end and substituting “Chief Executive Officer appointed under subsection 10 (2) of the *Financial Services Regulatory Authority of Ontario Act, 2016*”. (See: 2019, c. 1, Sched. 1, s. 264 (2))

Effect of filing

(2) Sections 14 and 26 of the *Pension Benefits Act* do not apply with respect to a filed agreement or with respect to any amendment to a pension plan that relates to the implementation of a filed agreement.

Section Amendments with date in force (d/m/y)

2019, c. 1, Sched. 1, s. 264 (2) - not in force

Eligibility of police service employees

241 (1) For the purposes of an agreement filed under section 240, an employee is an eligible police service employee if he or she is a member of a police service who is employed on the effective date of the proposed transfer of assets under the agreement in respect of his or her pension benefits and ancillary benefits under the original pension plan.

Exception

(2) Despite subsection (1), an employee is not an eligible police service employee if he or she is receiving a pension under the Public Service Pension Plan or the Ontario Municipal Employees Retirement System on the effective date of the proposed transfer of assets under the agreement.

Same

(3) Despite subsection (1), an employee is not an eligible police service employee if he or she is entitled, on the effective date of the proposed transfer of assets, to a deferred pension under the Public Service Pension Plan or the Ontario Municipal Employees Retirement System.

Employee’s consent to transfer of assets

242 (1) If an eligible police service employee consents, assets may be transferred under an agreement filed under section 240 from an original pension plan to a successor pension plan in respect of his or her pension benefits and ancillary benefits under the original pension plan in accordance with this Part.

Same

(2) The employee must indicate his or her consent in writing in the manner specified by the administrator of the original pension plan.

Application of the *Pension Benefits Act*

(3) The following rules apply to a transfer of assets in accordance with this Part:

1. Sections 21, 79.2, clause 80 (6) (b) and subsections 80 (9) to (15) and 81 (4) to (7) of the *Pension Benefits Act* do not apply to the transfer.
2. For the purposes of section 79.1 of the *Pension Benefits Act*, the transfer is deemed to be authorized under section 80 or 81 of that Act if the transfer is done in accordance with subsections 80 (1) to (8) or 81 (1) to (3) of that Act, respectively.

Transfer to prescribed retirement savings arrangement

(4) If the amount of the assets to be transferred in relation to an individual's pension benefits and other benefits under the original pension plan is greater than the amount allowed under the *Income Tax Act* (Canada) for such a transfer, the administrator of the original pension plan shall pay the portion that exceeds that allowed amount into a retirement savings arrangement prescribed under the *Pension Benefits Act* on behalf of the individual.

Exception

(5) If the amount to be paid under subsection (4) into a retirement savings arrangement prescribed under the *Pension Benefits Act* is greater than the amount prescribed under the *Income Tax Act* (Canada) for such a transfer, the administrator shall pay the portion that exceeds the amount prescribed under that Act as a lump sum to the individual.

Effect of transfer of assets

(6) When assets are transferred in accordance with this Part to a successor pension plan, the transferred assets become part of the assets of the pension fund for that pension plan and they cease to be identified as assets of the original pension plan.

Status of transferred assets and discharge

(7) When assets are transferred in accordance with this Part,

- (a) the employer who is the sponsor of the successor pension plan assumes responsibility for providing pension benefits and other benefits under the original pension plan to the transferred members, and other persons entitled to payments under that plan, and they have no further claim against the original pension plan; and
- (b) the administrator of the original pension plan is discharged upon transferring the assets.

PART XV COURT SECURITY

Court security

Police service boards

243 (1) A police service board that has policing responsibility for an area has the following responsibilities with respect to premises where court proceedings are conducted:

1. Ensuring the security of judges and other judicial officers and of persons taking part in or attending proceedings.
2. During the hours when judges, other judicial officers and members of the public are normally present, ensuring the security of the premises.
3. Ensuring the secure custody of persons in custody who are on or about the premises, including persons taken into custody at proceedings.
4. Determining appropriate levels of security for the purposes of paragraphs 1, 2 and 3 in accordance with the regulations, if any.

Commissioner

(2) The Commissioner has the responsibilities set out in subsection (1) in the area for which he or she has policing responsibility.

Common law replaced

(3) The responsibilities created by this section replace any responsibility for ensuring court security that existed at common law.

Powers of person providing court security

244 (1) A person who is authorized by a police service board to act in relation to the board's responsibilities under subsection 243 (1) or who is authorized by the Commissioner to act in relation to the Commissioner's responsibilities under subsection 243 (2) may exercise the following powers if it is reasonable to do so for the purpose of fulfilling those responsibilities:

1. Require a person who is entering or attempting to enter premises where court proceedings are conducted or who is on such premises,
 - i. to identify himself or herself, and
 - ii. to provide information for the purpose of assessing whether the person poses a security risk.
2. Search, without warrant,
 - i. a person who is entering or attempting to enter premises where court proceedings are conducted or who is on such premises,

- ii. any vehicle that the person is driving, or in which the person is a passenger, while the person is on, entering or attempting to enter premises where court proceedings are conducted, and
 - iii. any property in the custody or care of the person.
- 3. Search, without warrant, using reasonable force if necessary,
 - i. a person in custody who is on premises where court proceedings are conducted or is being transported to or from such premises, and
 - ii. any property in the custody or care of the person.
- 4. Refuse to allow a person to enter premises where court proceedings are conducted and use reasonable force if necessary to prevent the person's entry,
 - i. if the person refuses to identify himself or herself or provide information under paragraph 1 or refuses to submit to a search under paragraph 2,
 - ii. if there is reason to believe that the person poses a security risk, or
 - iii. for any other reason relating to the fulfilment of the police service board's responsibilities under subsection 243 (1) or the Commissioner's responsibilities under subsection 243 (2).
- 5. Demand that a person immediately leave premises where court proceedings are conducted and use reasonable force if necessary to remove the person,
 - i. if the person refuses to identify himself or herself or provide information under paragraph 1 or refuses to submit to a search under paragraph 2,
 - ii. if there is reason to believe that the person poses a security risk, or
 - iii. for any other reason relating to the fulfilment of the police service board's responsibilities under subsection 243 (1) or the Commissioner's responsibilities under subsection 243 (2).

Arrest

(2) A person who is authorized by a police service board or by the Commissioner as described in subsection (1) may arrest, without warrant, any person who,

- (a) after being required to identify himself or herself or provide information under paragraph 1 of subsection (1), enters or attempts to enter premises where court proceedings are conducted without identifying himself or herself or providing the information;
- (b) after being directed to submit to a search under paragraph 2 of subsection (1), enters or attempts to enter premises where court proceedings are conducted without submitting to the search;
- (c) enters or attempts to enter premises where court proceedings are conducted, after a refusal under paragraph 4 of subsection (1); or
- (d) does not immediately leave premises where court proceedings are conducted, after being demanded to do so under paragraph 5 of subsection (1).

Reasonable force

(3) Reasonable force may be used if necessary to make the arrest.

Delivery to police officer

(4) If the person who makes the arrest is not a police officer, he or she shall promptly call for the assistance of a police officer and give the person arrested into the custody of the police officer.

Deemed arrest

(5) A police officer to whom the custody of a person is given under subsection (4) shall be deemed to have arrested the person for the purposes of the provisions of the *Provincial Offences Act* applying to his or her release or continued detention and his or her bail.

Accommodation

(6) When a person who is authorized by a police service board or by the Commissioner, as described in subsection (1), exercises powers under this section with respect to other persons, he or she shall ensure that those persons are accommodated in accordance with the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*, and this includes accommodation in connection with creed or disability.

Offences

245 (1) A person is guilty of an offence if,

- (a) after being required to identify himself or herself or provide information under paragraph 1 of subsection 244 (1), the person enters or attempts to enter premises where court proceedings are conducted without identifying himself or herself or providing the information;
- (b) after being directed to submit to a search under paragraph 2 of subsection 244 (1), the person enters or attempts to enter premises where court proceedings are conducted without submitting to the search;
- (c) the person enters or attempts to enter premises where court proceedings are conducted, after a refusal under paragraph 4 of subsection 244 (1); or
- (d) the person does not immediately leave premises where court proceedings are conducted, after being demanded to do so under paragraph 5 of subsection 244 (1).

Penalty

- (2) A person who is convicted of an offence under this section is liable,
- (a) in the case of a first offence, to a fine of not more than \$5,000, to an imprisonment for a term of not more than 60 days, or to both; or
 - (b) in the case of a second or subsequent offence, to a fine of not more than \$10,000, to an imprisonment for a term of not more than 60 days, or to both.

Powers not affected

Judicial powers

246 (1) Nothing in this Part derogates from or replaces the power of a judge or other judicial officer to control court proceedings.

Same

(2) Nothing in this Part affects the right of a judge or other judicial officer to have access to premises where court proceedings are conducted.

Powers of persons providing court security

(3) Nothing in this Part derogates from or replaces any powers that a person authorized by a police service board or by the Commissioner as described in subsection 244 (1) otherwise has under the law.

Privilege preserved

247 Nothing in this Part shall operate so as to require the disclosure of information that would be inadmissible in a court by reason of any privilege under the law of evidence, or permit the review of documents containing such information.

PART XVI COMMUNITY SAFETY AND WELL-BEING PLANS

PREPARATION AND ADOPTION

Municipal community safety and well-being plan

248 (1) Every municipality shall prepare and, by resolution, adopt a community safety and well-being plan.

May be prepared individually or jointly

(2) The community safety and well-being plan may be prepared by the municipality individually or jointly in consultation with other municipalities or band councils.

First community safety and well-being plan

(3) A municipality must prepare and adopt its first community safety and well-being plan before the second anniversary of the day on which this section began applying to the municipality.

Transition

(4) Every community safety and well-being plan prepared and adopted under the *Police Services Act* before it was repealed shall be deemed to have been prepared and adopted under this Act.

Same, deemed compliance

- (5) The Minister may deem a community safety and well-being plan to have met all of the requirements in section 250 if,
- (a) consultations to develop the plan were completed before January 1, 2019; and
 - (b) in the Minister's opinion, the consultations substantially complied with the obligations set out in section 250.

Same, time limit

(6) If a municipality was required to prepare and adopt a community safety and well-being plan under section 143 of the *Police Services Act* but no plan was prepared and adopted before that Act was repealed, the two-year period under subsection (3) shall begin on the day section 143 of the *Police Services Act* first began applying to the municipality.

First Nation community safety and well-being plan

249 (1) A band council of a First Nation may prepare and adopt a community safety and well-being plan.

May be prepared individually or jointly

(2) The community safety and well-being plan may be prepared by the band council individually or jointly in consultation with other band councils or municipalities.

Preparation of plan by municipality

250 (1) A municipality that prepares a community safety and well-being plan shall establish an advisory committee.

Joint preparation of plan

(2) Despite subsection (1), a group of municipalities that are jointly preparing a community safety and well-being plan shall jointly establish and consult with a single advisory committee.

Membership of committee

(3) The advisory committee must, at a minimum, consist of the following members:

1. A person who represents,
 - i. a local health integration network for a geographic area in which the municipality is located, as determined under the *Local Health System Integration Act, 2006*, or
 - ii. an entity that provides services to improve the physical or mental health of individuals in the community or communities.
2. A person who represents an entity that provides educational services in the municipality.
3. A person who represents an entity that provides community or social services in the municipality, if there is such an entity.
4. A person who represents an entity that provides community or social services to children or youth in the municipality, if there is such an entity.
5. A person who represents an entity that provides custodial services to children or youth in the municipality, if there is such an entity.
6. An employee of the municipality or a member of the municipal council.
7. A person who represents the police service board or, if there is no police service board, the commander of the detachment of the Ontario Provincial Police that provides policing in the area or his or her delegate.
8. A chief of police of a police service that provides policing in the area or his or her delegate.
9. Any other person prescribed by the Minister.

Single individual may meet multiple requirements

(4) A single individual may satisfy the requirements set out in multiple paragraphs of subsection (3).

Same, joint plans

(5) If the community safety and well-being plan is prepared by a group of municipalities or band councils,

- (a) the members of the advisory committee shall be appointed by agreement of the participating municipalities and band councils; and
- (b) the provisions of this Act that apply to community safety and well-being plans apply, with necessary modifications, to joint community safety and well-being plans.

Considerations

(6) In appointing the members of the advisory committee, the municipality or municipalities shall consider the need to ensure that advisory committee is representative of the municipality or municipalities, having regard for the diversity of the population in the municipality or municipalities.

Consultations

(7) In preparing a community safety and well-being plan, the municipality or municipalities shall,

- (a) consult with the advisory committee;
- (b) consult with members of the public, including youth, individuals who have received or are receiving mental health or addictions services, members of racialized groups and of First Nation, Inuit and Métis communities, in the municipality or municipalities and, in the case of a joint plan with a First Nation, in the First Nation reserve;
- (c) consult with community organizations, including First Nation, Inuit and Métis organizations and community organizations that represent youth or members of racialized groups, in the municipality or municipalities and, in the case of a joint plan with a First Nation, in the First Nation reserve; and
- (d) comply with any consultation requirements that may be prescribed by the Minister.

Use of information

(8) In preparing a community safety and well-being plan, the municipality or municipalities shall consider available information related to crime, victimization, addiction, drug overdose, suicide and any other risk factors prescribed by the Minister, including statistical information from Statistics Canada or other sources, in addition to the information obtained through its consultations.

Other prescribed requirements

(9) The municipality or municipalities shall meet the requirements prescribed by the Minister, if any, in preparing their community safety and well-being plan.

Transition

(10) A community safety and well-being plan that was adopted in accordance with this section, as it read at the time, continues to be valid despite any intervening changes to this section.

Content of community safety and well-being plan

251 A community safety and well-being plan shall,

- (a) identify risk factors in the municipality or First Nation, including, without limitation, systemic discrimination and other social factors that contribute to crime, victimization, addiction, drug overdose and suicide and any other risk factors prescribed by the Minister;
- (b) identify which risk factors the municipality or First Nation will treat as a priority to reduce;
- (c) identify strategies to reduce the prioritized risk factors, including providing new services, changing existing services, improving the integration of existing services or coordinating existing services in a different way;
- (d) set out measurable outcomes that the strategies are intended to produce;
- (e) address any other issues that may be prescribed by the Minister; and
- (f) contain any other information that may be prescribed by the Minister.

Publication of community safety and well-being plan

252 A municipality that has adopted a community safety and well-being plan shall publish it on the Internet in accordance with the regulations made by the Minister, if any.

Implementation of community safety and well-being plan

253 A municipality that has adopted a community safety and well-being plan shall take any actions that the plan requires it to take and shall encourage and assist other entities to take any actions the plan requires those entities to take.

REPORTING AND REVISION

Monitoring, evaluating and reporting

254 (1) A municipality that has adopted a community safety and well-being plan shall, in accordance with the regulations made by the Minister, if any, monitor, evaluate and report on the effect the plan is having, if any, on reducing the prioritized risk factors.

Publication

(2) The reports referred to in subsection (1) shall be published on the Internet in accordance with the regulations made by the Minister, if any.

Revision by municipality

255 (1) A municipality that has adopted a community safety and well-being plan shall review and, if appropriate, revise the plan within the period prescribed by the Minister.

Revision by band council

(2) A band council that has adopted a community safety and well-being plan may review and, if appropriate, revise the plan within the period prescribed by the Minister.

Process for revision

(3) Sections 250 to 252 apply, with necessary modifications, to the revision of a community safety and well-being plan.

MISCELLANEOUS**Information to Minister**

256 (1) Every municipality shall provide the Minister with any information prescribed by the Minister respecting,

- (a) the municipality's community safety and well-being plan, including the preparation, adoption or implementation of the plan;
- (b) any outcomes from the municipality's community safety and well-being plan; and
- (c) any other matter prescribed by the Minister related to the community safety and well-being plan.

Time to comply

(2) The municipality shall provide the information within the period prescribed by the Minister.

No personal information

(3) Personal information cannot be prescribed for the purposes of this section.

Community safety and well-being planner

257 (1) The Minister may appoint a person as a community safety and well-being planner for a municipality if, in the Minister's opinion, the municipality has intentionally and repeatedly failed to comply with one of its obligations under this Part, other than section 253.

Notice of appointment

(2) The Minister shall give the municipality at least 30 days' notice before appointing the community safety and well-being planner.

Term of office

(3) The appointment of a community safety and well-being planner is valid until terminated by order of the Minister.

Powers of planner

(4) Unless the appointment provides otherwise, a community safety and well-being planner has the right to exercise any powers of the municipality that are necessary to prepare a community safety and well-being plan that the municipality could adopt.

Same

(5) The Minister may specify the powers and duties of a community safety and well-being planner appointed under this section and the terms and conditions governing those powers and duties.

Right of access

(6) A community safety and well-being planner appointed for a municipality has the same rights as the municipal council in respect of the documents, records and information of the municipality.

Minister's directions

(7) The Minister may issue directions to a community safety and well-being planner with regard to any matter within the jurisdiction of the planner.

Directions to be followed

(8) A community safety and well-being planner shall carry out every direction of the Minister.

Report to Minister

(9) A community safety and well-being planner shall report to the Minister as required by the Minister.

Municipality to pay costs

(10) The municipality shall pay the community safety and well-being planner's remuneration and expenses as set out in the regulations made by the Minister.

PART XVII
REGULATIONS AND MISCELLANEOUS

Property in possession of police service

258 (1) This section applies to personal property of all kinds, except firearms and money, that comes into the possession of a police service under either of the following circumstances:

1. The property was stolen from its owner or was found abandoned in a public place and the chief of police is unable to determine who owns it.
2. The property was seized by a member of the police service in the lawful execution of his or her duties, all legal proceedings in respect of the property have been completed, there is no court order for its disposition and there is no legal requirement, apart from this section, that it be retained or disposed of.

Sale

(2) The chief of police may cause the property to be sold and the police service board may use the proceeds for any purpose that it considers in the public interest, including a charitable donation.

Perishable property

(3) If the property is perishable, it may, at any time without notice, be donated to a charitable organization or sold.

Non-perishable property

(4) If the property is not perishable, the following rules apply to its sale:

1. The property may be sold when it has been in the possession of the police service for at least one month in the case of a motor vehicle as defined in the *Highway Traffic Act* or a bicycle, or for at least three months in the case of other property.
2. The sale shall be made using an in-person public auction, an online public auction or a public tender.
3. In the case of an in-person public auction, at least 10 days' notice of the time and place of the auction shall be published on the Internet, in accordance with the regulations made by the Minister, if any.
4. An online public auction must be open to bids from the public for at least seven days and may be extended until the property is sold.
5. A public auction may be adjourned, repeatedly if necessary, until the property is sold.

Claim of owner of property

(5) If a motor vehicle, bicycle or other property has been sold before it has been in the possession of the police service for three months and if the owner makes a claim before that time, the owner is entitled to receive the proceeds, less the costs of storage, advertising and sale.

Register of property

(6) The chief of police shall keep a register of property and ensure that the following rules are followed:

1. The description and location of every item of property shall be recorded.
2. If the property is sold, full particulars shall be recorded.
3. If the property is returned to its owner, his or her name, address and telephone number shall be recorded.

Exception

(7) This section does not apply to a motor vehicle that is impounded under section 220 of the *Highway Traffic Act*.

Money

259 (1) This section applies to money that comes into the possession of a police service under the circumstances described in paragraph 1 or 2 of subsection 258 (1).

Accounting

(2) The money shall be accounted for according to the method prescribed by the Minister.

Use of money

(3) If three months have elapsed after the day the money came into the possession of the police service and the owner has not claimed it, the police service board may use it for any purpose that it considers in the public interest.

Firearms

260 (1) This section applies to firearms that are in the possession of a police service because they have been found, turned in or seized.

Safe-keeping, return to owner

(2) The chief of police shall ensure that firearms are securely stored and that they are returned to their owners if there is a court order or other legal requirement to that effect.

Destruction

(3) If all possible court proceedings relating to a firearm have been completed or the time for them has expired and there is no court order or other legal requirement governing how the firearm is to be dealt with, the chief of police shall ensure that it is destroyed promptly, unless subsection (4) applies.

Firearm of special interest

(4) If the chief of police considers the firearm unique, an antique or of educational or historical value, he or she shall notify the Director of the Centre of Forensic Sciences.

Same

(5) If the Director indicates, within three months of receiving notice, that the firearm is required for the Centre's collection, the chief of police shall ensure that it is transferred there.

Same

(6) If the Director indicates that the firearm is not required for the Centre's collection or fails to respond within three months of receiving notice, the chief of police shall ensure that the firearm is destroyed promptly.

Disposal otherwise than by destruction

(7) The chief of police may dispose of a firearm to which subsection (6) applies otherwise than by having it destroyed if he or she first obtains the Minister's approval of the method of disposal.

Register of firearms

(8) The chief of police shall keep a register of firearms and ensure that the following rules are followed:

1. Every firearm's description and location shall be recorded.
2. When a firearm ceases to be in the possession of the police service board or of a member of the police service, full particulars shall be recorded, including the name of the person who disposed of it and the date and method of disposal.
3. If the firearm is returned to its owner, his or her name, address and telephone number shall also be recorded.

Statement

(9) Every chief of police shall, in accordance with the regulations made by the Minister, provide the following information to the Minister:

1. A list of the firearms that have come into the possession of the police service during the preceding calendar year.
2. A list of which firearms are still being retained and which have been disposed of, along with the particulars of that disposal.
3. Any other information prescribed by the Minister.

Regulations**Lieutenant Governor in Council**

261 (1) The Lieutenant Governor in Council may make regulations,

1. respecting anything that, in this Act, may or must be prescribed or done by regulation, other than by the Minister;
2. prescribing policing standards, including the policing standards that must be met in providing adequate and effective policing;
3. governing the provision of policing functions, including,
 - i. prescribing policing functions in respect of which a police service board or the Commissioner may enter into an agreement under subsection 14 (1) or (2),
 - ii. prescribing entities that may provide policing functions pursuant to an agreement under section 14 and specifying the policing functions they may provide,
 - iii. prohibiting the provision of a policing function by persons who are not peace officers,
 - iv. prohibiting the provision of a policing function by persons who are not police officers,
 - v. prescribing requirements that a police service board or the Commissioner shall comply with in relation to entering into an agreement under section 14,

- vi. prescribing additional matters an agreement under section 14 must address;
- 4. prescribing codes of conduct and governing their application;
- 5. prescribing entities as prescribed policing providers, specifying the policing functions they will be responsible for providing, specifying the area in which they will provide the policing functions and specifying whether a police service board, or the Commissioner, may continue to provide those policing functions in the area;
- 6. respecting the governance, operation and administration of police services;
- 7. authorizing a chief of police to decline to provide information under section 4, 40 or 104 or authorizing the Commissioner to decline to provide information under section 62, and prescribing the circumstances in which the information may be declined;
- 8. specifying requirements, restrictions or prohibitions with respect to the collection, use or disclosure of any class of personal information by the Minister or the Inspector General in addition to the requirements, restrictions or prohibitions set out in this Act;
- 9. clarifying or specifying when a person is assisting members of a police service while acting under their direction for the purposes of sections 13 and 14;
- 10. clarifying or defining “special circumstances” for the purposes of section 16 or subsection 91 (6);
- 11. governing the process for obtaining the Minister’s approval under section 22;
- 12. clarifying or modifying the application of this Act with respect to,
 - i. a police service board that has been jointly constituted under section 23 or 24,
 - ii. a First Nation Board that has been jointly requested under section 32,
 - iii. a First Nation O.P.P. board that has been jointly requested under section 77, or
 - iv. a community safety and well-being plan that is prepared jointly under Part XVI;
- 13. governing the process for requesting that the Minister constitute a First Nation board or First Nation O.P.P. board and prescribing the matters the Minister must consider, including the weight the Minister must assign to prescribed matters;
- 14. establishing standards for appointments by the Lieutenant Governor in Council of members of municipal boards, which may include minimum standards in relation to representation on the boards by underrepresented groups;
- 15. governing recommendations by the Minister to the Lieutenant Governor in Council regarding appointments to police service boards under section 33;
- 16. governing strategic plans and local action plans, including,
 - i. the preparation, review and revision of the plans, and
 - ii. the content of the plans;
- 17. governing annual reviews of the Commissioner;
- 18. governing payments for policing provided by the Commissioner under section 64 to municipalities, including the cost of any necessary equipment and facilities, and,
 - i. governing the determination of the amounts payable, which may require municipalities to pay more for the services they have received or less for the services they have received based on their financial capacity,
 - ii. governing the payment of those amounts, including providing for the calculation and payment of interest and penalties,
 - iii. governing the collection of those amounts, including providing for payment credits and refunds for overpayments, and
 - iv. for the purposes described in subparagraphs i, ii and iii, establishing different requirements for different classes of territories;
- 19. governing payments for policing provided by the Commissioner to territories without municipal organization, including the cost of any necessary equipment and facilities, and,
 - i. governing the determination of the amounts payable for those services, which may be based on financial capacity,
 - ii. governing the payment of those amounts, including providing for the calculation and payment of interest and penalties,

- iii. governing the collection of those amounts, including providing for payment credits and refunds for overpayments, or providing that all or part of those amounts may be collected under the *Provincial Land Tax Act, 2006* as if they were taxes imposed under that Act, and
 - iv. for the purposes described in subparagraphs i, ii and iii, establishing different requirements for different classes of territories;
- 20. governing the composition of O.P.P. detachment boards, including the number of members of a board, eligibility for appointment to the board and the mechanism for appointing members of the board;
- 21. governing the term of office, remuneration and expenses of members of O.P.P. detachment boards;
- 22. permitting more than one O.P.P. detachment board to advise the same detachment of the Ontario Provincial Police and establishing the rules that apply when two or more O.P.P. detachment boards advise the same detachment commander;
- 23. governing the participation of O.P.P. detachment boards and First Nation O.P.P. boards in the selection of the detachment commander;
- 24. governing the estimates prepared by an O.P.P. detachment board under section 71, including establishing the rules for calculating a municipality's share of the costs, which may require municipalities to pay more for the services they have received or less for the services they have received based on their financial capacity;
- 25. governing the composition of the Advisory Council;
- 26. governing the indemnification of any official, as that term is defined in the *Special Investigations Unit Act, 2019*, for reasonable legal expenses incurred in respect of a Special Investigations Unit investigation, including specifying which person or entity shall provide the indemnification;
- 27. prescribing the nature of the information that may be disclosed under subsection 80 (1) by a chief of police or a person designated by a chief of police, to whom it may be disclosed and the circumstances in which it may be disclosed;
- 28. establishing standards that must be met and procedures that must be followed in assessing whether an individual is physically and mentally able to perform the duties of a police officer or a special constable for the purposes of this Act;
- 29. clarifying the meaning of the requirement to be of good character to be appointed as a police officer or special constable;
- 30. prescribing certificates or other documents that are equivalent to a degree or diploma described in subclause 83 (1) (f) (iii), including by prescribing characteristics of a document or certificate-granting program that make the certificate or other document equivalent to such a degree or diploma;
- 31. defining or clarifying "political activity" for the purposes of section 86 and specifying the political activities in which a police officer who is a member of a police service maintained by a police service board is permitted to engage;
- 32. establishing ranks for a police service;
- 33. governing qualifications for the appointment of persons as police officers and governing qualifications for positions in a police service, including qualifications for specified ranks;
- 34. governing the conduct and duties of members of police services and special constables;
- 35. describing the circumstances under which members of police services or special constables are permitted or are not permitted to pursue persons by means of motor vehicles, and prescribing procedures that shall be followed when a person is pursued in that manner;
- 36. governing the suspension and termination of members of police services other than police officers;
- 37. governing the use of any equipment by a police service or any of its members, a special constable employer or a special constable, including regulating or prohibiting the use of firearms and other weapons;
- 38. governing the conduct of hearings under section 88, including prescribing regular procedures or rules and expedited procedures or rules for them;
- 39. governing the use of data standards, electronic systems and processes, information technology and communication technology by a police service or any of its members, a special constable employer or a special constable;
- 40. governing the use of force by members of police services and special constables and governing reports on the use of force;
- 41. governing the appointment of auxiliary members of a police service, including prescribing conditions or restrictions on the appointments;

42. clarifying or modifying the application of this Act with respect to members of a police service who take a leave of absence or who are on secondment;
43. prescribing the purposes that may be specified in an appointment of a special constable and specifying any terms or conditions that apply to a special constable appointed for such a purpose;
44. prescribing educational criteria that must be satisfied in order for a special constable to be appointed for a specified purpose;
45. governing the powers of a police officer that may be conferred on a special constable and governing the exercise of those police powers;
46. governing the suspension and termination of the appointment of special constables;
47. governing the process with respect to complaints to the Inspector General;
48. governing the requirements to provide notice under Parts VII (Inspector General of Policing) and XII (Discipline and Termination), including prescribing the required contents of the notice and prescribing the circumstances in which notice is deemed to have been given;
49. establishing and governing rules for police service boards or the Minister to charge for the cost of investigations referred to a chief of police or the Commissioner by the Inspector General;
50. governing notice and reports by the Inspector General under section 123, including,
 - i. prescribing the period within which the Inspector General must provide the notice,
 - ii. prescribing circumstances in which the Inspector General shall not provide or publish a report,
 - iii. prescribing information that shall not be included in the report, and
 - iv. governing the publication of the report;
51. governing the publication of directions issued under section 125 or reports under section 126, including,
 - i. prescribing the period within which the Inspector General must publish the direction or report,
 - ii. prescribing circumstances in which the Inspector General shall not publish a direction or report,
 - iii. prescribing information that shall not be included in the published direction or report, and
 - iv. governing the manner of publication of the direction or report;
52. governing the duties that an administrator appointed under Part VII must perform;
53. governing the provision of personal information under subsection 143 (7), including limiting the personal information that is to be provided under that subsection;
54. governing the composition of the Ontario Police Arbitration and Adjudication Commission;
55. governing the registers of arbitrators and the roster of adjudicators that the Arbitration and Adjudication Commission is required to establish and maintain;
56. governing committees of the Arbitration and Adjudication Commission, including governing the names, composition, responsibilities, powers, duties and quorums of the committees;
57. governing the conduct of arbitrations under this Act, including,
 - i. prescribing procedures for them, and
 - ii. in the case of arbitrations other than those conducted under section 227 or 229,
 - A. excluding or modifying the application of any provision of the *Arbitration Act, 1991*,
 - B. governing the orders that an arbitrator may make in his or her decision,
 - C. prescribing rules for the payment of the arbitrator's remuneration and expenses, and
 - D. providing for appeals from the arbitration;
58. governing the conduct of adjudication hearings under this Act, including,
 - i. prescribing regular procedures or rules and expedited procedures or rules for the conduct of adjudication hearings,
 - ii. prescribing timelines for the conduct of adjudication hearings, and
 - iii. establishing sentencing guidelines containing considerations that adjudicators must consider when determining whether to impose a disciplinary measure;

59. governing the requirements and qualifications for a person to be appointed as an adjudicator;
60. governing procedures, conditions or requirements for the investigation of complaints under Part X;
61. governing the continuation of a complaint or resumption of an investigation in the circumstances described in subsection 170 (3);
62. governing the use of information obtained in an investigation or hearing under Part XII (Discipline and Termination), including restricting or prohibiting its use;
63. governing the continuation of investigations or disciplinary processes under section 206;
64. governing the exercise of discretion to expunge a record under section 207;
65. governing the responsibilities set out in subsection 243 (1), including governing the determination of appropriate levels of security, under paragraph 4 of subsection 243 (1), for premises where court proceedings are conducted;
66. governing the exercise of the powers conferred by section 244, including,
 - i. imposing restrictions, limitations and conditions on the exercise of those powers, and
 - ii. establishing requirements for the purpose of safeguarding the rights and freedoms guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*, including requirements that provide for the accommodation of persons in connection with creed or disability;
67. governing the requirement to provide an opportunity to respond in any provision of this Act, including prescribing requirements for any notice that must be provided and prescribing the minimum period of time that must be provided to satisfy the obligation;
68. authorizing the production of records in the custody of a police service that are required for the purpose of a civil proceeding to which the police service board that maintains the police service or, in relation to the Ontario Provincial Police, Her Majesty the Queen in right of Ontario is not a party, including,
 - i. governing the process for obtaining such records, and
 - ii. prescribing fees for obtaining the records;
69. clarifying or defining any of the following terms for the purposes of this Act:
 - i. “Bad faith”.
 - ii. “Conduct of specific operations”.
 - iii. “Criminal offence”.
 - iv. “Day-to-day administration”.
 - v. “Discipline of specific police officers”.
 - vi. “Firearm”.
 - vii. “For cause”.
 - viii. “Frivolous or vexatious”.
 - ix. “Leave of absence”.
 - x. “Lock-up”.
 - xi. “Plan for attrition”.
 - xii. “Specialized policing function”.
 - xiii. “Specific investigations”.
 - xiv. “Term of imprisonment”.
 - xv. “Youth”.
70. modifying the application of the *Police Services Act*, as it read immediately before its repeal, to complaints and matters described in section 216;
71. governing transitional matters that may arise due to the enactment of this Act or the amendments made by Schedule 2, 3 or 4 to the *Comprehensive Ontario Police Services Act, 2019*;
72. governing the delivery of policing in an area that is subject to the jurisdiction of an Indigenous entity that is not a First Nation, including, without limitation,
 - i. identifying the Indigenous entity,

- ii. constituting a police service board to have policing responsibility for the area and governing its composition, name, appointments to it and the term of office of members of it,
- iii. modifying the application of any provision of this Act or the regulations to enable the police service board to provide policing in the area,
- iv. modifying the application of any provision of this Act or the regulations to enable the constitution of a board similar to a First Nation O.P.P. board and to enable that board to discharge the powers, duties and functions of a First Nation O.P.P. board in relation to the Indigenous entity, and
- v. modifying the application of any provision of this Act or the regulations to apply to the Indigenous entity and the area subject to its jurisdiction;

73. respecting any matter that is necessary or advisable to implement this Act effectively.

Minister

(2) The Minister may make regulations,

- 1. respecting anything that, in this Act, may or must be prescribed by the Minister or done by regulation made by the Minister;
- 2. governing training and prescribing additional training requirements, including training approved by the Minister respecting additional prescribed matters, in relation to members of police service boards, O.P.P. detachment boards, First Nation O.P.P. boards and the Advisory Council, the Inspector General, inspectors under this Act, the Complaints Director and investigators under this Act;
- 3. governing the provision of information under subsection 4 (1) or 104 (1), including prescribing,
 - i. the information that must be provided,
 - ii. the manner in which the information must be provided, which may include requiring information to be automatically provided electronically to the Ministry or Inspector General, and
 - iii. the frequency with which the information must be provided;
- 4. prescribing a unit of the Ministry to collect and use personal information under subsection 5 (1) on the Minister's behalf;
- 5. governing extra policing costs under section 18, including clarifying the application of that section and defining any term used in that section;
- 6. governing reports on the implementation of diversity plans under subsection 28 (4), including specifying the required contents of the reports;
- 7. governing transitional matters that may arise due to the enactment, amendment or revocation of a regulation made under section 32 or 77;
- 8. governing the procedure for providing notice and receiving comments on a proposed amendment to, or revocation of, a regulation made under section 32 or 77;
- 9. specifying the person or entity who shall remunerate members of a municipal board who are appointed by the Lieutenant Governor in Council or the Minister and governing their remuneration and expenses;
- 10. governing annual reviews of chiefs of police other than the Commissioner;
- 11. establishing and governing requirements with respect to the provision of notice to the public for meetings of police service boards or of the Advisory Council;
- 12. governing the publication of policies under section 38 or of local policies under section 69, including,
 - i. prescribing the period within which the policies must be published,
 - ii. prescribing policies that shall not be published,
 - iii. prescribing information that shall not be included in the published policies, and
 - iv. governing the manner of publication of the policies;
- 13. establishing the procedures to be followed by police service boards, O.P.P. detachment boards or First Nation O.P.P. boards, or committees of a board, and the places at which their meetings shall be held;
- 14. governing the publication of directions under section 40, including,
 - i. prescribing the period within which the directions must be published,
 - ii. prescribing directions that shall not be published,

- iii. prescribing information that shall not be included in the published directions, and
 - iv. governing the manner of publication of the directions;
- 15. defining “meeting” for the purposes of sections 43, 44, 74 and 75;
- 16. governing reports made by a chief of police under section 81 or 215 and reports on community safety and well-being plans, including specifying to whom the report shall be made and specifying the required contents of the reports;
- 17. governing fees that police service boards, the Commissioner and prescribed policing providers may charge for the provision of policing or other services, including,
 - i. prescribing the amount of a fee for the provision of a policing function or service,
 - ii. prescribing the minimum or maximum amount that may be charged for the provision of a policing function or service, or
 - iii. prescribing that no fee may be charged for the provision of a policing function or service;
- 18. governing training for police officers and special constables, including,
 - i. prescribing the training described in subclauses 83 (1) (e) (i) and 92 (1) (f) (i),
 - ii. exempting persons from having to complete the training referred to in subparagraph i to be appointed as a police officer or special constable, subject to the conditions, if any, that may be specified,
 - iii. prescribing training that police officers or special constables are required to complete and any period within which it must be completed, and
 - iv. prescribing additional training requirements, including training approved by the Minister respecting additional prescribed matters;
- 19. prescribing the form of any certificate of appointment issued under this Act;
- 20. prescribing the minimum salary or other remuneration and allowances to be paid to a member of a police service maintained by a police service board;
- 21. prescribing standards of dress for police officers and special constables on duty and prescribing requirements respecting their uniforms;
- 22. clarifying the requirement in subsection 91 (5) for an auxiliary member of a police service to be “accompanied or supervised” by a police officer, including prescribing the required level of accompaniment or supervision;
- 23. governing the ability of a chief of police to authorize an auxiliary member of the police service to possess or use firearms in the course of his or her duties;
- 24. prescribing the records, returns, books and accounts to be kept by police service boards and their members and by special constable employers;
- 25. prescribing the method of accounting for fees and costs that come into the hands of members of police services and special constables;
- 26. governing the requirements and qualifications for appointment as an inspector under section 111;
- 27. governing the requirements and qualifications for appointment as an investigator under section 136;
- 28. establishing classes of investigators appointed under section 136 and setting out requirements and qualifications for each class;
- 29. establishing and governing rules for the Arbitration and Adjudication Commission to charge police service boards for the cost of holding an adjudication hearing;
- 30. governing the publication of summaries of determinations by the Complaints Director under subsection 167 (2), including requiring that summaries be published within a specified time or period and, subject to the requirement in that subsection that summaries be de-identified, respecting information that summaries must contain;
- 31. for the purposes of subsection 172 (1),
 - i. providing that the cost of an investigation conducted by an investigator about the conduct of a police officer, other than a police officer who is a member of the Ontario Provincial Police, or of a special constable employed by the Niagara Parks Commission shall be paid by the police service board that employs the police officer or the Niagara Parks Commission,
 - ii. governing the calculation of the cost of an investigation,
 - iii. governing the payment of the cost of an investigation, including with respect to the time and manner of payment,

- iv. providing for circumstances in which the requirement to pay the cost of an investigation does not apply;
- 32. clarifying or defining any term used in subsection 250 (3);
- 33. prescribing persons who must be on an advisory committee under subsection 250 (3), which may include prescribing different persons for different municipalities;
- 34. governing consultations with respect to community safety and well-being plans, including consultations with the advisory committee, and prescribing any consultation requirements;
- 35. governing additional requirements that must be met by a municipality or band council in preparing a community safety and well-being plan;
- 36. governing the contents of community safety and well-being plans, including,
 - i. prescribing any issues or information that the plan must address or contain, and
 - ii. prescribing any risk factors that the plan must identify;
- 37. governing the monitoring and evaluation of community safety and well-being plans;
- 38. prescribing and governing the remuneration and expenses to be paid to a community safety and well-being planner by a municipality.

Conflict

(3) In the event of a conflict between a regulation made under paragraph 59 of subsection (1) and a procedural rule made under section 134, the regulation prevails to the extent of the conflict.

Fees, conflict

(4) In the event of a conflict, a regulation made under paragraph 17 of subsection (2) prevails over a by-law made by a police service board or prescribed policing provider.

Rolling incorporation by reference

(5) A regulation made under paragraph 2, 37 or 39 of subsection (1) or paragraph 2 or 18 of subsection (2) that incorporates another document by reference may provide that the reference to the document includes amendments made to the document from time to time after the regulation is made.

Forms

(6) The Minister may approve forms for the purposes of this Act and provide for or require their use.

Transitional regulation

- (7) A regulation made under paragraph 70 of subsection (1) may, without limiting the generality of that paragraph,
 - (a) dissolve the Ontario Civilian Police Commission and provide for any transitional matters relating to the dissolution;
 - (b) transfer records related to policing and establish rules with respect to the transfer;
 - (c) require an entity to postpone or delay hearings or require matters to be dealt with by a new body under this Act;
 - (d) amend or rescind an agreement made under section 10 of the *Police Services Act* before its repeal;
 - (e) dissolve a board that performed functions under section 10 of the *Police Services Act* before its repeal; and
 - (f) govern the determination of any outstanding amounts in relation to an agreement made under section 10 of the *Police Services Act* before its repeal and provide for payment of those outstanding amounts or for the repayment or crediting of any overpayments.

Same

(8) Any transfer of records containing personal information that is required by a regulation made under paragraph 70 of subsection (1) is deemed to be in compliance with section 38 and clause 42 (1) (c) of the *Freedom of Information and Protection of Privacy Act*.

Public consultation before making L.G. in C. regulations

- 262** (1) The Lieutenant Governor in Council shall not make any regulation under subsection 261 (1) unless,
- (a) the Minister has published a notice of the proposed regulation on a website of the Government of Ontario and given the notice by any other means that the Minister considers appropriate;
 - (b) the notice complies with the requirements of this section;
 - (c) the time period specified in the notice, during which members of the public may exercise a right described in clause (2) (b), has expired;

- (d) the Minister has considered whatever comments and submissions members of the public have made on the proposed regulation in accordance with clause (2) (b); and
- (e) the Minister has reported to the Lieutenant Governor in Council on what, if any, changes to the proposed regulation the Minister considers appropriate.

Contents of notice

- (2) The notice referred to in clause (1) (a) shall contain,
- (a) a description of the proposed regulation;
 - (b) a statement of the time period during which members of the public may submit written comments on the proposed regulation to the Minister and the manner in which the comments must be submitted;
 - (c) a statement of where and when members of the public may review written information about the proposed regulation;
 - (d) the publication date of the notice; and
 - (e) any other information that the Minister considers appropriate.

Time period for comments

- (3) The time period referred to in clause (2) (b) shall be at least 45 days after the Minister publishes the notice referred to in clause (1) (a), unless the Minister shortens the time period in accordance with subsection (4).

Shorter time period for comments

- (4) The Minister may shorten a time period if, in the Minister's opinion,
- (a) the urgency of the situation requires it;
 - (b) the proposed regulation clarifies the intent or operation of this Act or the regulations;
 - (c) the proposed regulation will be made under paragraph 71 of subsection 261 (1); or
 - (d) the proposed regulation is of a minor or technical nature.

Discretion to make regulations

- (5) On receiving the Minister's report referred to in clause (1) (e), the Lieutenant Governor in Council, without further notice under subsection (1), may make the proposed regulations with any changes the Lieutenant Governor in Council considers appropriate, whether or not those changes are mentioned in the Minister's report.

No public consultation

- (6) The Minister may decide that this section should not apply to the power of the Lieutenant Governor in Council to make a regulation under subsection 261 (1) if, in the Minister's opinion, any of the circumstances set out in subsection (4) apply.

Same

- (7) If the Minister decides that this section should not apply to the power of the Lieutenant Governor in Council to make a regulation under subsection 261 (1),
- (a) this section does not apply to the power of the Lieutenant Governor in Council to make the regulation; and
 - (b) the Minister shall give notice of the decision to the public as soon as is reasonably possible after making the decision.

Publication of notice

- (8) The Minister shall publish the notice referred to in clause (7) (b) on a website of the Government of Ontario and give the notice by any other means that the Minister considers appropriate.

Contents of notice

- (9) The notice referred to in clause (7) (b) shall include a statement of the Minister's reasons for making the decision, the publication date of the notice and any other information the Minister considers appropriate.

No review

- (10) Subject to subsection (11), a court shall not review any action, decision, failure to take action or failure to make a decision by the Minister or the Lieutenant Governor in Council under this section.

Exception

- (11) Any person resident in Ontario may make an application for judicial review under the *Judicial Review Procedure Act* on the grounds that the Minister has not taken a step required by subsections (1) to (9) of this section.

Time for application

(12) No person shall make an application under subsection (11) with respect to a regulation later than 21 days after the Minister publishes a notice on a website of the Government of Ontario with respect to the regulation.

Crown bound

263 This Act binds the Crown in right of Ontario.

PART XVIII (OMITTED)

264 OMITTED (PROVIDES FOR AMENDMENTS TO THIS ACT).

PART XIX (OMITTED)

265 OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT).

266 OMITTED (ENACTS SHORT TITLE OF THIS ACT).

Français

[Back to top](#)